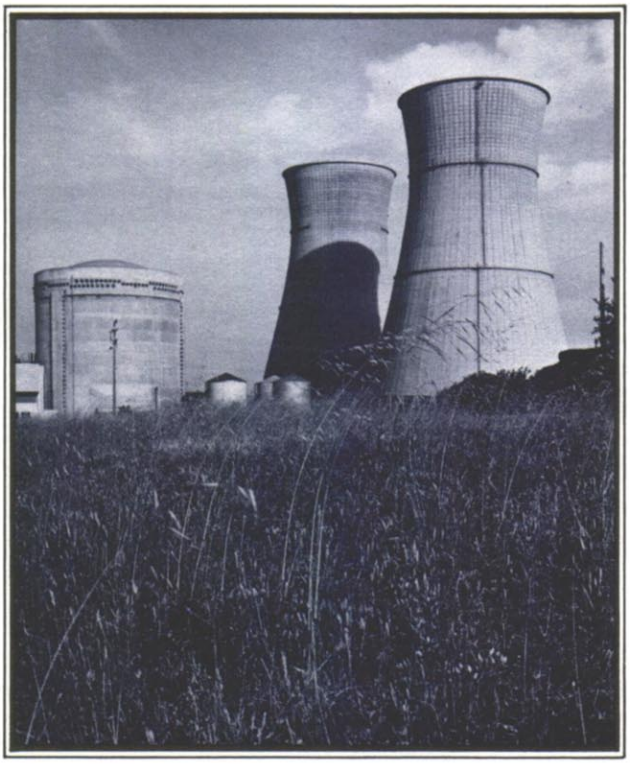
June 1979/$1.75

California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

GUIDE TO



NUCLEAR POWER IN CALIFORNIA:

Can we afford it?
Rancho Seco - how big a risk?
How do we dispose of old plants?

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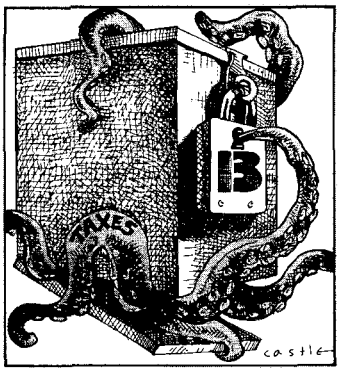
Personal

PERSPECTIVE

By Ed Salzman



The power to tax

Howard Jarvis and Paul Gann claim the politicians have subverted the mandate of Proposition 13 and that government spending in California hasn't changed nearly enough since their initiative was passed one year ago.

Gann is trying to make state and local officials conform to the "Spirit of 13" through his new initiative, which would place stringent limits on government spending. Jarvis wants to cut government down to size in California through a new initiative drastically reducing income taxes.

The city of Inglewood has done an excellent job of proving Jarvis and Gann right. After Proposition 13 was adopted, the city looked for means of maintaining its revenues and came up with a fee for fire services to make up a major portion of its deficit.

The Inglewood plan, the envy of many a municipality, works this way: Owners of small homes pay nothing. Larger homes, apartment buildings and virtually all commercial and industrial structures are subject to the fee, which runs roughly from $120 to $20,000 a year. The fee is based on what it would cost to extinguish a major fire in each structure and how well each structure is protected. In other words, the bigger the risk, the bigger the fee.

Proposition 13 failed to protect the citizenry from fee increases, especially those adopted immediately following passage of the initiative. The Gann proposal would not ban such heavy fees unless they were unrelated to the service performed. And the Jarvis measure would tend to increase the trend toward fees and service charges in lieu of general taxation.

If the fire department can be financed from a fee system, is any other public service exempt from a similar financial arrangement? Wouldn't it be feasible to establish a fee system for police based on risk to life and property?

Inglewood was able to adopt the fee system because it is a chartered city and thus enjoys more autonomy than small general-law cities. The Legislature has been under pressure not to ban the proliferation of Inglewood-type fees but to make them available to more units of government.

The voters of Inglewood, it should be pointed out, did not support Proposition 13. The city council could use that vote as justification for escaping budget reductions by finding alternate revenues. After all, the council members were carrying out the will of that community. But there have also been substantial fee increases in many cities where the voters approved Proposition 13 by an overwhelming margin.

Inglewood's fire fee is being challenged in the courts. Even if it is declared illegal, ways undoubtedly will be found to finance government services — so long as the people in each community are willing to pay for them.

Jarvis and Gann are making a mistake if they think they will clamp the lid on taxation and government spending with their new initiatives. That can only be accomplished through a wholesale change in the identity of the people at all levels of government who hold the power to tax and spend.

California Journal

THE MONTHLY ANALYSIS
OF STATE GOVERNMENT AND POLITICS

Volume X, Number 6 June 1979

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CALIFORNIA JOURNAL is a non-partisan, non-ideological analysis of California government and politics established in 1970 and published monthly by the California Center for Research and Education in Government, a non-profit, tax-exempt corporation.

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Subscription rates: Libraries and Governmental Agencies, $30; Corporations and Associations, $50; Special Individual Rate, $18.

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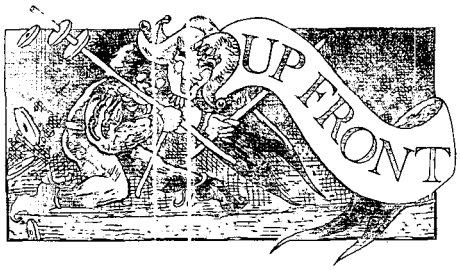

Governor Jerry Brown coined a new word, quite by accident, in his executive order establishing the odd-even gasoline-sale system — "energency." It obviously means "energy emergency."

The opposition of the Teamsters Union is far from the only reason why legislators year after year reject the CHP plea for the use of radar to catch speeders. Some of the state's most flagrant violators of the speeding laws happen to be members of the Legislature.

Nothing like kicking someone who's down, but what were those cars with state license plates doing in the vicinity of the special-election headquarters of Renee Simon, defeated candidate for state Senate in Long Beach?

For the record, Dave Ross is president of the Los Angeles deputy district attorneys association, not the California District Attorneys Association, as indicated in this space last month.

Congressman John Rousellot thinks there is a 50-50 chance that President Carter will decide not to run for re-election next year. Rousellot says he suspects Carter is not enjoying the job.

The League of California Cities continues to lose top talent in the wake of Proposition 13. Latest to leave is Bill Keiser, the league's general legislative counsel. He will join the Santa Ana-San Francisco-Newport Beach law firm of Rutan and Tucker on July 1st.

Republican Doug Carter of Stockton has already announced that he will run for the fourth time against Democrat Carmen Perino of Stockton next year. Carter's political allies have abandoned a recall campaign against Perino, who may be under pressure from the Assembly Democratic high command not to seek re-election in 1980.

In case you should wonder, the by-line on this month's article on marijuana is not a pseudonym.

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BROWN'S NEW MISSION:

SHED THE 'FLAKE' IMAGE

By Ed Salzman

When Eastern Democratic voters step into their polling places early next year, will they think of Jerry Brown primarily as (1) another California kook who might install rock singer Linda Ronstadt as the first lady of the land or as (2) an unconventional politician with the guts to fight the Washington bureaucracy and win and to prevent expansion of nuclear power in America?

The answer to that question holds the key to Brown's chances of winning the Democratic nomination for president next summer. If the primary election balloting were to start this month instead of next February, Jimmy Carter would have little to fear from the California governor, who has been portrayed as an undependable flake who revises his position with every change of the political winds. In New Hampshire, Carter now must worry first about the write-in campaign on behalf of Senator Ted Kennedy from adjacent Massachusetts.

Carter is not popular in the Northeast despite his moment of glory with the signing of the Egypt-Israel peace treaty. And Brown has plenty of time in which to conjure up one of his magic mirror acts that can change public opinion of him almost overnight. But he must do it on his own. He will get little help from the press, which has turned solidly against him in the Northeast, or from traditional Democratic party leaders, who have been turned off by Brown's support of a constitutional convention to force a balanced federal budget. The political-media community has never been especially fond of Brown, and the events of the past year have provided the ammunition for an assault on him.

A symbol for blacks

Much has been written about Brown's abortive attempt to appear before the New Hampshire legislature to support a resolution calling for a federal constitutional convention. Democratic Party pressure forced Brown to change his plans, and the California visitor was forced to eat crow by Democratic Governor Hugh Gallen of New Hampshire.

But did that hurt Brown much? Probably not. In fact, it may have helped him. It again dramatized Brown's campaign for reduced government spending, and that's a plus except among those who probably wouldn't support him anyhow. In the end, the New Hampshire legislature passed the resolution, and Brown came away a winner on the issue.

The trip to Africa with Linda Ronstadt was quite a different matter. Brown undertook the trek for the same reason politicians have been taking the "three-I" trips for decades. Brown felt no need to visit Israel, Ireland and Italy. His problem was with the black citizenry in California and across the country. Black political leaders had warned Brown that he was losing support from black voters because of his highly advertised "tilt" toward Chicanos and because he had been weak on the issue of student busing in Los Angeles. The trip to Africa was supposed to be a symbol of Brown's concern over problems of the blacks.

CARTOON BY LOU GRANT, Oakland Tribune

As it turned out, the timing could not have been worse. The Legislature completed action on Senator Alan Robbins' constitutional amendment designed to halt busing in Los Angeles to achieve racial integration in the public schools. Lieutenant Governor Mike Curb was threatening to put the issue on the ballot for a special election this summer. Black legislators wanted Brown in Sacramento, not in Nairobi, to block the special election.

While the trip may have backfired on that score, the average citizen in New Hampshire, New York and Massachusetts was not aware of it. What fascinated them was

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the daring of the 41-year-old bachelor governor to take his girlfriend, Linda Ronstadt, with him on the Africa trip. The voters saw headlines like this one from page one of the *New York Post:* "Jerry and Linda smooch on safari."

Although the name of the rock goddess may conjure up favorable thoughts in the minds of young voters, it hurt Brown measurably among a majority of voters in the Northeast. The notion of a candidate for president enjoying an open romance was damaging among the straight-laced folks in New Hampshire (and there are plenty of them). But even if Brown and Ronstadt decided to get married, many voters would remain turned off. As one New Englander put it in an interview, "We just can't see Linda Ronstadt in the White House as the first lady."

Brown did not depart for Africa with the singer without first assessing the political consequences. Despite what many Americans have been led to believe, Brown is anything but a kook or a flake who acts without reflection and therefore would be dangerous at the nation's helm. Brown chooses at times to make important revelations in a seemingly off-the-cuff manner, but virtually everything Brown does that can affect his political future is weighed carefully and announced with maximum benefit in mind. When Brown shifts positions, it is because he has detected a shift in public attitude or feels that one is imminent.

There are those who feel that Brown emerged a net winner from the African safari because it gained him some national publicity he might otherwise not have received, especially the covers of *People* and *Newsweek* magazines. *Newsweek* used a cover shot of Jerry and Linda on an airplane with the headline "The Pop Politics of Jerry Brown." It emphasized Brown's efforts to be a different type of politician and it contained a charge that Brown's zealotry as a fiscal conservative has "fed the suspicion of the established press and political community that he is an opportunist or worse." The photographs were flattering, but those who read the text probably came away with a negative overview of Brown.

Elsewhere, the media was poking fun at Brown and helping to create the "flake" image. He became the key figure in a series of *Doonesbury* cartoons published by hundreds of newspapers. Brown was the butt of a joke on the front page of *Barron's* financial newspaper. Columnists picked up this quote from United States Senator Paul Tsongas of Massachusetts: "If you deny Jimmy Carter the nomination in favor of Jerry Brown, you should reinstate public hanging."

The ideal issue

Then came Three Mile Island. Suddenly, balanced budgets and Linda Ronstadt were unimportant. Brown had a new issue to use — one that always had appealed to liberals in the Democratic Party and one that now had newfound converts among the masses. He was able to employ a demand for a shutdown of Rancho Seco near Sacramento — twin to the plant in Pennsylvania — as his means of getting on the front page. In early May, Brown traveled to Washington to join a protest against nuclear power. On this issue, Brown could hardly be called an opportunist. His administration had been under attack for preventing the construction of new nuclear plants in California. It was a major issue in the gubernatorial campaign. No one could say that Brown's stand on nuclear power was flaky — not after the series of revelations that the Pennsylvania accident was worse than had been reported. He succeeded in closing Rancho Seco, at least temporarily. And he was photographed side-by-side with Jane Fonda, a darling of the left and star of the anti-nuke film, *The China Syndrome.*

Best of all for Brown, Jimmy Carter maintained his support for nuclear energy. Carter could hardly have done otherwise. He is the former skipper of a nuclear submarine and he once ventured into the core of a nuclear reactor to repair it. For Carter to have reversed himself on nuclear energy would have been like Pete Rose repudiating baseball.

So long as Jerry Brown can maintain a campaign focus on issues like a balanced budget and nuclear safety, he has a chance to win — unless Ted Kennedy becomes an active candidate or pulls off some kind of a write-in miracle. Jimmy Carter has a substantial lead over Brown in the public-opinion polls, but that is more because people are worried about whether Brown is just another California crazy than because they approve of the job the President has done.

Evidence in states like New York, Massachusetts, New Hampshire and Wisconsin indicates that Ted Kennedy can have the Democratic nomination almost for the asking. But will he run? The best guessing is that Kennedy will play a waiting game. He could win New Hampshire and his home state by write-in. If Carter is defeated elsewhere, he could then jump into the contest as an active campaigner.

A crazyquilt pattern

Kennedy has a definite constituency — the liberals, the knee-jerk fans of any member of the Kennedy family, the media and major elements of the political establishment. Carter has a constituency based on incumbency, which was enough to get Gerald Ford the nomination in the Republican Party three years ago over Ronald Reagan who was more popular among GOP rank and file.

And where does that leave Jerry Brown, the man without a political constituency? Brown must build a crazyquilt pattern of support. And he must appeal directly to the voters because he will be denied institutional backing. On the one hand, he must appeal to conservative middle-class voters with the argument that he alone among presidential aspirants can go to Washington and balance the budget by making wholesale cuts in government spending. On the other hand, he must appeal to liberals by emphasizing his strong opposition to nuclear power.

Americans are apt to be in an ugly mood come primary time if the cost of gasoline and heating fuel keeps rising rapidly, and there are long lines of cars at gasoline stations. Jerry Brown is a master at taking advantage of the frustrations of the voters, and that is a situation that would be made to order for his rhetoric.

Jimmy Carter keeps a close watch on the California governor. The President knows he faces a formidable opponent. And the White House will do everything it can to strengthen the image that Jerry Brown is a total opportunist who traffics with singers and actresses and treats government as almost another branch of show business.

With Carter extraordinarily vulnerable, Kennedy waiting on the sidelines and Brown suffering from a rare African disease (Ronstadtitis, of course), 1980 looks like a great year for the Republicans. The presidency looks so available to the GOP that Ronald Reagan now has anything but a clear field. If the Democrats were in good shape, would there be so many Republicans like Phil Crane, George Bush, Bob Dole, Howard Baker and John Connally trying to cut down the California front-runner?

Yet long-shot Brown has the track record to indicate that he could defeat Carter in the primaries and any Republican in the general election — if he gets the opportunity to capitalize on issues of significant concern. If Brown gets more openings like Three Mile Island, he will be able to build his popularity much as he did in California following the passage of Proposition 13.

One thing is certain: Should it come to pass that both Ronald Reagan and Jerry Brown win their party nominations, neither one will be able to call the other "just another kook from California."

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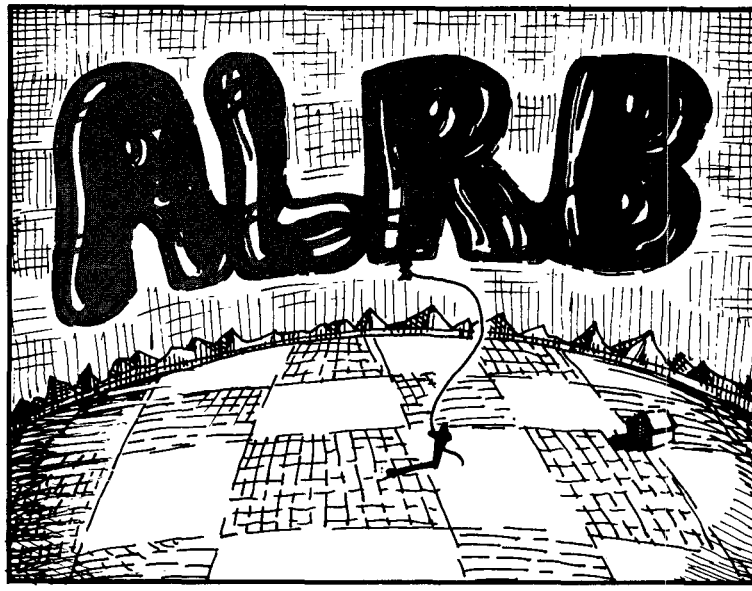
MISSION UNACCOMPLISHED: BRING PEACE TO THE FIELDS

Why the ALRB is under constant attack



By Eric Brazil

No public agency could have fulfilled the high hopes held out for the Agricultural Labor Relations Board when it was created four years ago. And sure enough, it hasn't.

Given California's history of farm labor turbulence, it would have taken an Atlas among agencies to carry out its legislative mandate: "to ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations." Beset by budgetary criticism, personnel problems, agribusiness' legal gunslingers, and an abrasive relationship with the Legislature, the ALRB has staggered frequently in trying to walk a straight path through a political and economic minefield.

Yet the agency performed more effectively than its adversaries suspected it could — until last January. That was when the United Farm Workers mounted one of the most powerful and protracted strikes in history against the lettuce industry in the Imperial Valley. The strike awoke every sleeping dog that had ever yapped at the ALRB. Cesar Chavez's UFW is the agency's dominant client, and it has the power to convulse an entire industry. When the farmworkers strike, every square in the ALRB's alarm system lights up.

While the ALRB has achieved at least nominal acceptance from the agribusiness community, most produce men and their Sacramento representatives fondly hope to see the agency eviscerated — or, better yet, abolished. They see ALRB's inability to control strike violence and the kinds of cooling-off injunctions it has obtained as evidence of the board's ingrained anti-employer bias. On the other hand, some of its friends accuse it of being too timid in using its full powers under the Agricultural Labor Relations Act of 1975.

When the act was passed, labor, management, the Legislature and Governor Jerry Brown were all looking for a quick fix to bring tranquility to the farm labor scene. Contention was bitter among the UFW, the Teamsters and the growers who preferred the latter to Chavez's union. Required to learn its job under labor combat conditions, the ALRB lurched about and made some embarrassing mistakes. This left it wide open to charges of ineptness and pro-United Farm Workers bias.

Such charges plague it to this day, despite agency efforts to alter its image. In agribusiness circles the board is still perceived as hopelessly biased toward the UFW.

"Some of the worst instances of unfairness aren't present any more, but over all, the ALRB seems to see itself as just an agency to advance farm worker interests. Besides, they don't work very hard," says a Salinas attorney whose clients include several firms which do a lot of business with ALRB.

"There are many instances where the board favors Cesar and the union 100 percent," says Imperial Valley grower Tom Hubbard. During the January-February strike in the Valley's lettuce fields "there were times when we'd file unfair labor practice charges, and it was very, very slow in beginning an investigation. Then when the union would file a charge, the investigation would begin immediately . . . The board agents will listen — at least you think they're listening — but you get no action from them."

Parade of problems

The ALRB got one vote of confidence from the Legislature this year, when it permitted a joint oversight committee which had monitored the agency's performance to fade away after two years. Otherwise it has been a difficult and challenging period, and it's an optimistic ALRB worker who sees light at the end of the tunnel. Items:

- ***The legislative analyst's office,*** in a relentlessly critical report, said the agency's per-worker productivity is indefensibly low and still declining. Besides, the analyst said, the ALRB is overstaffed and its travel expenditures and overtime management are a bookkeeping nightmare — and possibly illegal.
- ***The Legislature,*** pressured by agribusiness and not content with laying the axe to the ALRB's $7,656,500 budget request, appears ready to accede to a couple of amendments in the hitherto-sancrosanct Agricultural Labor Relations Act (ARLA).
- ***A dozen of the board's weightier decisions*** are on appeal in the state's higher courts, and if they're not upheld, the agency's entire role may be reduced to that of a glorified clerical office.
- ***Growers and law enforcement agencies*** are charging that the agency can't handle the territory it has staked out for itself as a peacekeeper during labor strife.

Few issues galvanize strong emotions in California quite like farm labor. It cuts across party lines and exposes the anatomy of the power structure for all to see. It was precisely to "bring certainty and a sense of fair play to a presently unstable and potentially volatile condition in the state" in the farm labor field that ALRB was created. That the agency's main business has to do with Chavez's UFW assures it of a perpetually exposed position in the conflict.

The ALRB was created to administer the act at a time of maximum stress, with the UFW and Teamsters at each other's

Eric Brazil is the Capitol bureau chief for the Gannett newspapers.

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throats, no ground rules and a general clamor for a system of fair, secret-ballot elections for farm workers. Grower organizations were among the most enthusiastic cheerleaders for secret-ballot farm-worker representation elections. But they had trouble swallowing the ALRA, which had Chavez's fingerprints on every page; and they were appalled by Governor Brown's first appointments to the five-member board.

The ALRB was established to do for California farm workers what the National Labor Relations Act of 1935 does for all other workers. It is in charge of conducting union representation elections; investigating, filing and adjudicating unfair labor practices, and guaranteeing farm workers the right to join unions and bargain collectively with employers.

Killing pressure

The agency was under such killing pressure in its first year that its inexperienced staff conducted the stupefying total of 423 elections in its first five months of operation. At the same time, it was being berated and demonstrated against by UFW for slowness and inflexibility and criticized by the Teamsters and agribusiness for bias and bungling.

Republicans and rural Democrats in the Legislature were so peeved by the agency's performance that they refused the supplemental appropriation which would have kept it in continuous operation. Consequently, the ALRB went out of business between February and July of 1976. When it reopened, it was with three-fifths of a new board and a 50 percent new staff.

The second phase of the agency's existence was marked by internal turmoil centered on General Counsel Harry J. Delizonna, whose combative management style switched off staff and board members alike. By the time Delizonna stepped down in May of 1978, his staff was in open revolt, and he and the board were barely speaking.

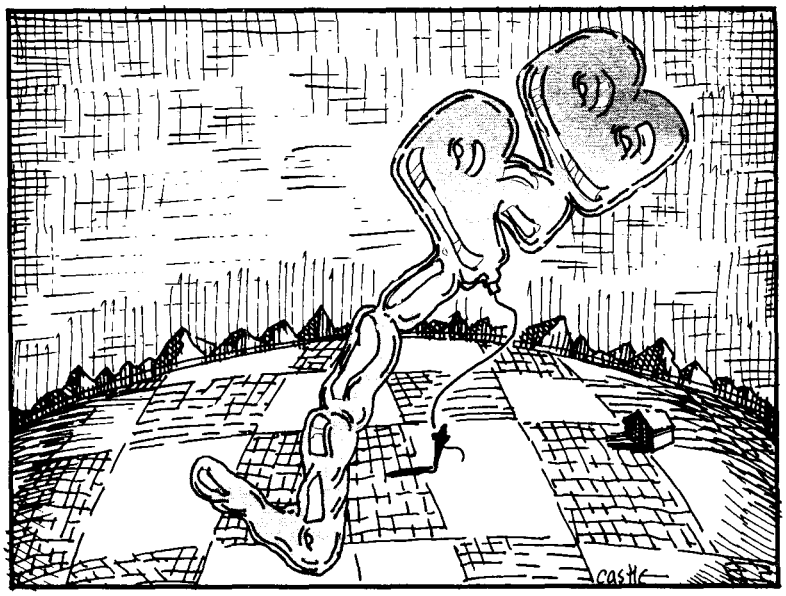
Boren Chertkov, Delizonna's successor, is as smooth as Delizonna was rough. Chertkov is a former chief counsel to the House Select Committee on Ethics and an ex-staff member for the National Labor Relations Board. It is generally conceded that he has done much to burnish the agency's image and restore staff morale. But no amount of public image-building can gloss over real agency problems.

Democratic Assemblyman Floyd Mori of Pleasanton, who chaired the joint legislative oversight committee, gave Chertkov a tongue lashing recently during a hearing on the agency's budget. The ALRB is still committing inexcusable management blunders and responding to criticism with vague assurances that it'll try harder to tighten up, Mori said. "After 16 hearings and three years we're tired of hearing you're doing something about it . . . The argument that it's a new agency is not an argument any more. It's an old agency. It has made a great deal of progress, but there are recurring inefficiencies, and I wonder when you'll stop saying 'We're a new agency.' "

For the past two years the legislative analyst's office has underscored low productivity of ALRB workers and the absence of an adequate agency management system. Chertkov and ALRB chairman Gerald A. Brown have conceded the latter point. Both contend that any straight-on comparison with the 44-year-old National Labor Relations Board is unfair. NLRB has had the time to work out the problems ALRB is only now experiencing, they say. Besides, ALRB's job is inherently more costly on a per-worker basis because of the distance and language factors involved and the migrancy of the labor force with which it deals.

Chairman Brown, himself a 30-year veteran of the NLRB and a former member, asserts that despite its bad press, the agency has accomplished quite a bit. "Clearly we haven't been perfect, but clearly there has been a better effort to deal with our problems than has been recognized," he says.

Brown buttresses his case with these statistics: The agency



has conducted 770 elections, issued 580 certifications which have produced nearly 400 contracts covering more than 100,000 farm employees. It has issued 433 complaints alleging unfair labor practices that have resulted in 130 settlements by the parties and some 300 board decisions. "We believe this represents substantial progress in bringing democracy and the rule of law to the agricultural labor area," Brown says.

Such statements raise no cheers in the Legislature, which has been getting disquieting messages from the folks back home about the effects of the lettuce strike. "It doesn't seem to me we are making much progress," said state Senator Alfred Alquist, of San Jose, when his finance subcommittee whacked $818,000 out of the ALRB's proposed budget. "It raises the question whether we're investing in something that doesn't fulfill its promise. The act didn't bring peace to the fields."

Whether it's fair criticism to suggest that an agency ought to be scrubbed because it didn't fulfill the fondest expectations held for it, however unrealistic, is immaterial. That some legislators entertain such thoughts seriously is not a good omen for ALRB's future.

The Agricultural Labor Relations Act has been sacrosanct in the past, but the legislative leadership may not be able to keep the cap on the bottle much longer, despite UFW protestations that any substantive amendments are premature. Although the Assembly Labor, Employment and Consumer Affairs and Senate Industrial Relations Committees buried most of the 18 grower-backed amendments proposed this year, at least one — making it easier for workers to decertify unions as their bargaining representative — looks like it's going to pass.

Labor takes a cold-eyed view of agribusiness' ultimate intentions with respect to the act and resists even the slightest tinkering with it. "Growers never accepted this union and they never accepted this law. The day they get a conservative majority in this Legislature, it'll be repealed. We all know it," says California Labor Federation Secretary-Treasurer John F. Henning. "They won't stop until they break this law, and they won't stop until they break this union."

But ALRB critics are equally vocal. "Violence is going on, and the ALRB is party to it; they're dragging their feet," says freshman Assemblyman Pat Nolan of Glendale. Nolan authored a bill abrogating ALRB's exclusive jurisdiction over unfair labor practices — a bill which bit the dust in the Assembly Labor, Employment and Consumer Affairs Committee.

"We simply can't get fast reactions out of the board," West-

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ern Growers Association attorney Jasper Hempel complains.

Several major questions about ALRB still haven't been resolved by the state's higher courts. They include the board's decision to grant union organizers access to workers on employer property after election certifications and even while contract negotiations are under way; the scope of judicial review of ALRB decisions, and even the fundamental constitutionality of the Legislature's broad grant of judicial power to the agency in agricultural affairs.

Chertkov observes that because the board has been breaking so much new ground and lacks a solid body of precedent, opposing parties have a tendency to take a chance on litigation instead of trying to settle. The NLRB settles 75 to 90 percent of its cases. ALRB's settlement rate is running at about 15 percent.

Chertkov emphasizes that ALRB has yet to go through the full cycle from organization through economic strikes to equilibrium, as its federal counterpart did long ago. The nature of ALRB's caseload is changing, he says. Parties are becoming more sophisticated, and since there have been hundreds of certifications, the violations now coming on for hearing are arising from the bargaining relationship. Most of the earlier cases flowed from the election process; the bulk of them now are bargaining problems and decertification.

Until last January, when the UFW strike against 28 major lettuce growers erupted, the ALRB had been able to deflect criticism by pointing out that, with all its faults, there had been few significant strikes, no nationwide boycotts, no work stoppages, no labor strife-related deaths and few injuries since it came into existence. Now that sweeping claim has been rendered inoperable in every particular, and the ALRB is being tested as never before.

Friends and critics

By its friends, it is accused of being too cautious in asserting its authority in strike situations. Board-watchers in Salinas and the Imperial Valley say it's scared and confused. The agency may be moving with particular deliberateness because the issues with which it is dealing are novel to it, but that is no help to its public image. The general perception of the board is one of faint-heartedness where resoluteness is required.

The agency is also perceived as biased in its peacekeeping efforts, and growers yearn for the days when they could go straight to court to obtain injunctive relief from mass picketing and strike-related violence, instead of channeling their complaints through the ALRB. But ALRB regional director Byron Georgiou of San Diego defends its performance. Georgiou, who quarterbacked the board's efforts in the Imperial Valley strike, says "The record makes it clear that we can respond very quickly, in one or two days."

The board was widely criticized for failing to seek contempt citations against UFW in the Imperial Valley for repeated violations of the injunction it had written imposing certain duties on growers and the union. And the very nature of those injunctions, handcrafted by ALRB attorneys, infuriates growers. To a grower trying to get a crop harvested with strikebreaker labor, 150 pickets — the number allowed under some injunctions — is mass picketing and intimidating to the work force. Between mid-January, when the lettuce strike began, and late April, the ALRB obtained 11 injunctions restraining conduct by UFW, seven restraining growers.

And a precedent-setting injunction issued in April by Monterey County Superior Court Judge Richard Silver at ALRB's behest, granting UFW picketers field access to talk with strike-breakers, drives growers almost to apoplexy.

Chertkov's declaration in support of the access-to-strike-breakers injunction is regarded by growers as empty but dangerous rhetoric and *prima facie* evidence of bias. "I am aware of considerable violence, including the shooting death of an agricultural employee in the Imperial Valley, which appears to be at least partially attributable to the inability of union representatives to communicate with agricultural employees working for struck employers," Chertkov said. That may be even-handed, but it strikes growers as soft-headed.

The ALRB injunctions impose restrictions on both sides in the strike — such as restricting the size of handles on picket signs and unloading the guns of grower security guards during daylight hours. Yet growers contend that because most of the strike-related violence has been initiated by the union, the injunctive restrictions laid on by the ALRB are almost inherently unfair, despite their surface impartiality.

Stacks of incident reports pile up on sheriffs' desks as alleged violations of ALRB injunctions, and deputies grow frustrated at the lack of action on them. Criticized by legislators about his agency's seeming ineffectiveness against violence, Chertkov admits that he doesn't run a police force and that "this agency isn't equipped to deal with violence. We bring injunctions to bring peace to the fields."

An end run

The grower-law enforcement argument is that the injunctions haven't done any such thing. They are pushing hard to change the ALRB to permit an end run around the board to the courts.

It is not only in the areas of injunction enforcement and employer complaints that the agency is accused of moving slowly. The board itself is still deciding cases brought as far back as 1975. And the tough ones arising out of the lettuce strike haven't even risen to the board level yet.

Two of the agency's biggest problems are effectively beyond its control and stem from the peculiar dominance of UFW in the California farm labor arena:

- **By its very nature,** the ALRB reacts to the business brought before it, and UFW determines the kind and volume of business by ther activities it engages in — organizing, electioneering, bargaining, striking. If it sometimes appears that the ALRB's regional offices don't have much to do, it's because union activity is at a low ebb.
- **UFW tends to put** all its chips on the turn of every card, which inevitably makes the ALRB a player in a very risky game. The fortunes of the union and agency rose together and they'll probably decline together.

Cesar Chavez called the lettuce strike begun in the Imperial Valley a life-or-death struggle for the union. It's asking a lot of the ALRB to make the kinds of decisions that would help bring on the death of the client who has the only game in town.

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The open politics of the all-Brown PUC

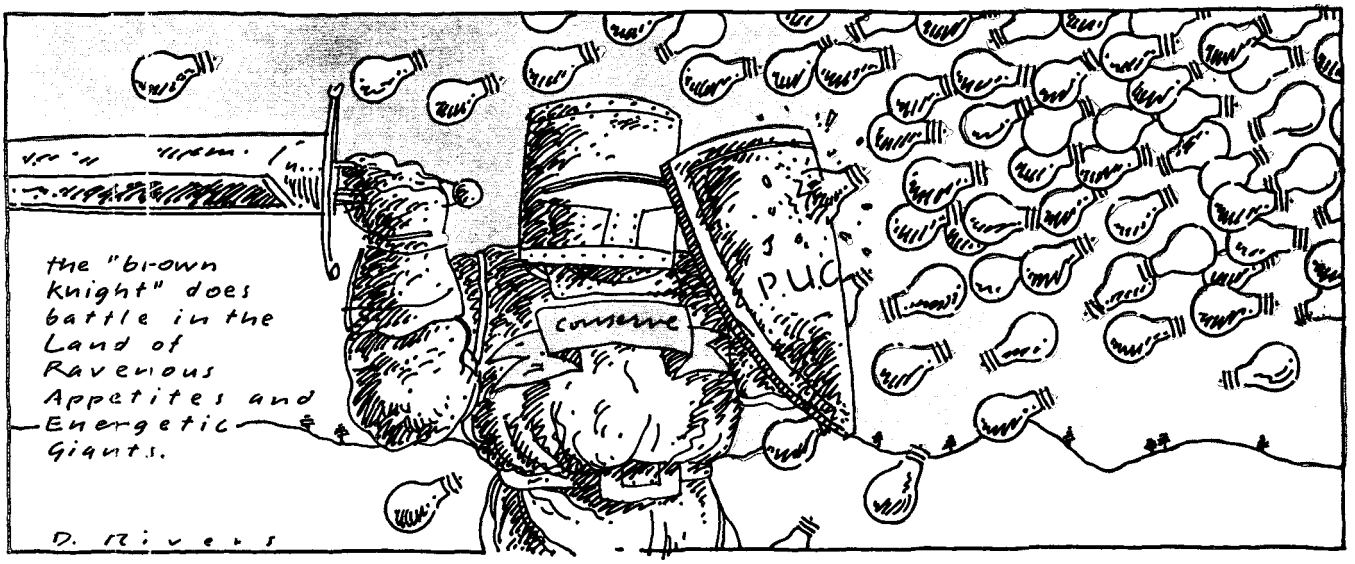

ILLUSTRATION BY DONNA RIVERS

By MARY ELLEN LEARY

Claims have erupted from many quarters lately that the California Public Utilities Commission has been "politicized." That is hardly surprising. The PUC's task subjects it to more pressure per square inch than any other public agency in California. Its regulatory finger rests on the pulse of the state's economy. Its decisions affect every household and industry as they pay for services that are essential to survival: lighting, heating, cooking, washing, communicating, manufacturing, pumping, growing, transporting. A Californian can scarcely go one hour without using some service whose cost, reliability and adequacy has been scrutinized and approved by the PUC. Even asleep, he or she rests content that the telephone is at hand if needed, the electric radio alarm will switch on, the coffee will perk, the egg will boil.

But such intimate entanglement in everyday life is now enormously magnified by the energy crunch and by the significance of recent PUC decisions. More than ever before, the commissioners are questioning utility-rate increases, urging conservation rather than capital investment and intervening in the long-range planning of the regulated utilities. Inevitably the cross fire between consumer groups and the utility companies flies over the heads of the five PUC members.

A shift to conservation

While the public is only too aware of the rise in monthly bills, it is less conscious of the dramatic shift in PUC policy toward conservation. The shift is hailed by many environmentalists as a model for the nation; it is condemned by pro-growth interests as a calamitous restriction on the business climate.

Mary Ellen Leary, long-time political writer in the San Francisco Bay Area, is the author of Phantom Politics, *a book analyzing the role of the media in California elections.*

It is commonly known — though not universally approved — that California has virtually banned new nuclear power plants through a set of laws adopted in 1976. Its right to do so is now being argued in the courts.

But what the PUC has undertaken in its "go-slow" approach to the future of electrical energy reaches much further than the nuclear issue. The PUC approach to conservation is so resolute and so far advanced that when the National Energy Program was signed into law by President Carter last November, its principal recommendations read like a report card on the California PUC. The federal government's shopping list for wiser utility management includes voltage reduction, inversion of declining block rates, lifeline, co-generation, repowering, alternate resources, time-of-use rates, load management techniques, mandatory household conservation. All have been promoted heavily by the conservation-conscious PUC in California.

Every state has some conservation programs, but no other has approached energy conservation as seriously as has California. Some PUC commissioners claim the federal energy plan is a forthright steal, modeled directly on California's pioneering policies.

Not only has the PUC turned purposefully toward conservation; it has even started figuring how to make such a policy pay, so that utility companies won't lose money as demand shrinks. That carrot seems essential to make the donkey budge. Consumer critics, though, scoff at throwing money at the utilities to win their acquiescence.

Evolving powers

The PUC and its extraordinary powers have evolved over the past century from the state's first Railroad Commission which was created to regulate the giant monopolies that then controlled state government. For many years only the lobbyists for regulated industries were seen in the drab fifth floor cor-

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ridors of the State Building on San Francisco's McAllister Street, where commissioners have their offices. Meetings were private and decisions often made in secret.

But today a multitude of conflicting interest groups battle in public session to influence the commissioners' rulings. They include consumer activists, city governments, rate experts imported from various universities, other state agencies (such as the Energy Commission) whose jurisdictions overlap, federal officials and members of the Legislature. They are joined by representatives of the privately owned utilities themselves: Pacific Telephone and General Telephone, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric Company, Southern California Gas Company and 520 other smaller companies. Municipal operations, like cooperatives, are not subject to PUC jurisdiction.

One key to the PUC's growing importance is its membership. The five commissioners are appointed by the governor for fixed six-year terms and confirmed by the Senate. Their role is to decide what consumers should pay for services provided by the private utility monopolies and what standards those services must meet. They also determine what earning ratio is appropriate to each company and what rate of return is acceptable for their investors. The continued functioning of these utilities in a healthy, productive fashion must be balanced by concern for consumer interests. With a staff of about 850 and a budget over $15 million, that's what the PUC does — or tries to do.

In January the terms of the last Reagan-appointed commissioners ran out, and the PUC for the first time was the exclusive province of Governor Brown appointees. Brown did choose to reappoint to a two-year vacancy a Republican first named by Reagan in 1973: ***Vernon L. Sturgeon,*** 62. This pleased business interests, which had been asking for balance on a commission they consider hopelessly Democratic and environmentalist-oriented. The other members:

- ***John E. Bryson,*** 35, the new chairman. His appointment delighted environmentalists. They knew this quick-minded attorney as a defender of natural resources and former chairman of the state Water Resources Control Board.
- ***Leonard M. Grimes,*** 55, formerly Brown's consumer affairs secretary and the first black on the PUC.
- ***Claire T. Dedrick,*** who had been resources agency secretary and a close Brown ally.
- ***Richard D. Gravelle,*** the most experienced member who moved up from PUC chief counsel. Unlike the newcomers, Grovelle's expertise in utility questions runs back 20 years with the PUC. Also unlike the others, he came onto the commission with no party identification.

Molding the image

Two earlier Brown appointees, chosen when he first took office in 1975, helped mold the present commission's image. Although they have since resigned, their mark is on current PUC policy. Leonard Ross wrote in September 1975, in a PG&E rate increase decision, what is now recognized as a landmark statement, the turning point toward conservation:

"We regard conservation (as) the most important task facing utilities today. Continued growth of energy consumption at the rates we have known in the past would mean even higher rates for customers, multi-billion dollar capital requirements for utilities and unchecked proliferation of power plants . . . Reducing energy growth in an orderly, intelligent manner is the only long-term solution to the energy crisis . . . To this end, we intend to make the vigor, imagination and effectiveness of a utility's conservation efforts a key question in future rate proceedings . . ."

Those words, "vigor, imagination and effectiveness," haunt every utility manager today. The policy raises a torrent of questions: Is this a "no-growth" rule damaging business, imposed by an unelected body? Are "vigor, imagination and effectiveness" something measurable? How can a company rest its rate schedule on alternates such as solar or wind resources when these technologies are still in their infancy? How can a utility compete for investment funds when under growth restraints?

Another shaper of conservation policy was Robert Batinovich, chairman until he voluntarily left in mid-

California versus Ma Bell

An 11-year-long wrangle between California telephone companies and the state offers a good example of the high-stakes decisions that keep the PUC in a political pressure cooker.

On the surface, the case appears to involve merely tax disputes and bookkeeping details — areas best left to lawyers and accountants. But there are underlying factors far more significant: millions of dollars in possible refunds to millions of phone customers; conflicts between state and federal laws; and the basic issue of taxation as applied to regulated public utilities.

The result is the famous "phantom tax" case which may set important precedents once it is decided in the federal courts. Here's the background:

In 1954, Congress sought to encourage more rapid utility expansion to keep the economy growing and jobs plentiful. It invented a plan to speed up the customary depreciation off-set allowed on corporate income taxes for plant and equipment which decline in value over the years. This "accelerated depreciation," in effect, gave companies quick cash for capital improvements, postponing indefinitely the pay-back date. Later, a second type of tax boon also was extended: investment credit.

The flow-through claim

In 1958 the California PUC began to look at how such tax adjustments related to what utility users actually paid in their monthly bills, covering company costs of doing business. By 1960 the PUC decided that this was a kind of tax forgiveness, not just a tax deferral. It claimed that the benefits should "flow through" to rate payers so that the tax savings would be reflected in rate reductions. All gas and electric utilities in California adjusted to the PUC decision. They still enjoy some fiscal advantages through the income tax leeway, although not as much as before.

However, the telephone companies did not take advantage of "accelerated depreciation." For reasons of their own, they rejected the chance to cut taxes or postpone taxes and stuck by old-style tax payments. So consumer lawyers, especially city attorneys of Los Angeles and San Francisco, went into court to argue that phone-company management was "imprudent" in scorning the federal tax advantages.

After years of litigation, the California Supreme Court agreed with this view, and ordered the phone companies to change their policies. But they did not move until new tax laws were drafted in 1969. The new laws

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January. When he stepped down, Governor Brown said, "Under his leadership the PUC has taken some very significant actions.' One such action came last Stepember, when the commission set up an Order Instituting Investigation (OII 26). This requires a utility to probe "the entire range of options available . . . for energy conservation."

Seeds of change

But it would be incorrect to suggest that the Brown appointees fashioned such venturesome innovations by themselves. Seeds of change were planted on the picket line in 1974, the last year of the Reagan Administration. A rapid succession of utility rate increases, most of them to offset rocketing cost-jumps in oil after the 1973 Middle East oil cutoff, prompted angry protests.

For long years after World War II, utilities in California had experienced explosive growth. They doubled plant size, investment and production capability and enjoyed growth so profitable that few rate increases were pressed on consumers. The oil shortage changed that. In July 1974, PG&E asked the PUC for a 16 percent gas rate hike, the eighth successive appeal for rate increases by that firm in a year. Other utilities were doing likewise. Most requests were granted, some over staff objections. As a result consumer outrage boiled up; protestors decried the burden such costs levied on the poor and elderly.

Perhaps the most visible and vigorous organization produced by this indignation was TURN (Towards Utility Rate Normalization) in San Francisco, led by Sylvia Siegel, a self-made expert in the regulatory field. In Los Angeles, public-interest lawyers were also active, and in Berkeley the Environmental Defense Fund legal staff plunged into utility issues, questioning particularly the constant expansion of plants at such huge costs.

Two policy changes came as results of the organized protests:

• ***"Lifeline" rates for telephones and for gas and electricity.*** "Lifeline" means that minimum segment of service deemed essential for subsistence, made available by PUC order at a particularly low cost for all customers, irrespective of income status. This first block of usage is priced so low that other rates may partially subsidize it.

• ***Inverse block rates.*** Since the gaslight era, utility charges have been set on a scale in which the largest user paid the lowest per-unit cost. Companies found the cost of doing business declined in proportion to volume, so price rewarded volume. When construction costs for new plants began soaring and fuel costs made conservation an issue, consumer groups protested that it was nonsense to urge householders to turn off their lights and keep homes cooler when frugal citizens were paying a higher rate for their utilities than energy-gulping industry with no incentive to conserve. The protest, after long wrangling, was effective and brought a reversal of traditional rate patterns. (A recent state Supreme Court decision may require repeal of inverse rates, however.)

Industry response to PUC change has been less than unanimous. PG&E attorneys claim the company is quite hospitable to the conservation thrust. Says PG&E's Kermit Kubitz: "We don't mind a large-scale investigation of our planning process, nor a reasonable estimate of conservation possiblities. The problem is that it involves immense detail no one quite appreciates, and many unknown, untried elements. They put an incredible burden on us. In addition, they subject us to a lot of cross-fire from other agencies. We get different messages about what we should be doing from different agencies. In some cases, following one puts us into direct conflict with laws administered by another."

One indication of dissent within the industry is an article in last October's issue of *Public Utilities Fortnightly*, written by retiring PUC Commissioner William Symons Jr. He called California's "reforms" a failure and said that lifeline rates and inverse block schedules are not acceptable.

"Behind all the razzle-dazzle about conservation," Symons wrote, "the program appears to have one driving goal — securing maximum political advantage out of a scheme which promotes massive redistribution of income via utility rates." In other words, the PUC is playing politics with its policymaking, according to Symons. The complaint is all too familiar to the embattled commission.

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accommodated all utilities previously using "flow-through" accounting, but they seemed to penalize companies undertaking it anew. (Some utility officials have acknowledged to the courts that utility lobbyists had a hand in tailoring this curious impediment.)

In effect, California has held that a set of books that pretends to pay full annual taxes as a business cost — when, in fact the taxes are not paid but the money is applied to plant growth — means phone users are being tapped for a "phantom" cost. The issue of "phantom taxes" raged through the '70s in California as the phone companies and other utilities disputed several aspects of their federal taxes and customer rate accommodations. The most recent decision came in February, when the state Supreme Court ruled in favor of the state. The PUC ordered two phone companies to present an immediate plan to repay customers for millions of dollars it said had been improperly charged to phone bills.

But the scrap hasn't ended. Having lost in the state, the companies now have entered federal courts. Their plea for a restraining order is before the U.S. Ninth Circuit Court of Appeal.

A record refund

PUC spokesman Eugene Raleigh says the order involves the largest refund ever ordered by the PUC: for Pacific Telephone, $295 million currently accumulated. (The amount increases as time runs on.) In addition, the company is supposed to reduce current rates by $82 million a year. The PUC awaits the company plan on how to stage this repayment. (General Telephone Company faces a smaller but substantial refund order.)

The huge refunds are not the full measure of what Pacific Telephone calls its "catastrophic" burden. With this order looming, company bonds have been shifted downward one step from the highest rating by Moody's and by Standard & Poor's. Pacific Telephone's mother company, American Telephone and Telegraph, which owns 90 percent of Pacific's shares, has stated it will not invest further common equity capital in the company as long as "present adverse regulatory conditions prevail."

The gravest blow of all lies ahead, the company claims: uncertainty over company status with the federal Internal Revenue Service. As the company reads present law, complying with the state order to make refunds will deprive it of eligibility for federal tax benefits it has been claiming. This, officials claim, could mean plunking out $1 billion or — if proceedings drag on four years or so — up to $3 billion in required taxes previously abated or postponed.

The final outcome will affect all utilities, not just the phone companies. It involves major questions about federal subsidies intended to stimulate economic expansion and about state policy on how to protect rate-payers when taxes — or tax forgiveness — get translated into customer fees. California's PUC and the California Supreme Court hold that phone company customers must not be the ones to underwrite government gratuities. M.E.L.

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GUIDE TO NUCLEAR POWER IN CALIFORNIA

On April 27th, the federal Nuclear Regulatory Agency ordered that the Rancho Seco nuclear-power plant near Sacramento – twin to Pennsylvania's Three Mile Island facility – be shut down for "safety modifications." In so doing, the NRC might have sounded the death knell for future nuclear power in California. But even if no additional nuclear plants are built, one tantalizing question remains: How will the state dispose of Rancho Seco and other plants once they are decommissioned?

By HAL RUBIN

To counteract growing public resistance to nuclear energy in the early 1970s, the nuclear establishment launched an expensive media campaign. The magazine ads were particularly eye-catching. One showed a plump little woman holding an apple pie. The copy read: "Mom's apple pie is radioactive. So is Mom. That doesn't make her a dangerous woman. Radiation is naturally everywhere in the earth, in your homes, in your food, in your Mom. And each accounts for more radiation than a nuclear power plant."

The copy went on to minimize the dangers of a few additional millirems of radioactivity. It warned that the nation better get busy building more nuclear plants to assure an adequate future supply of electricity.

Soothing messages of that variety are part of the nuclear past. The near meltdown at Three Mile Island in Pennsylvania on March 28th effectively wiped out the Nuclear Regulatory Commission's notion that a Class 9 accident (core meltdown) was an "incredible" accident so unlikely that it did not even merit consideration. Three Mile Island triggered a nationwide chain reaction, complete with protest rallies, confrontations and political clashes. Although the accident occurred on the East Coast, strong repercussions were felt throughout California, and particularly in Sacramento.

Rancho Seco, near Sacramento, has one of the seven operational pressurized water reactors built by Babcock and Wilcox. The nuclear power plant is of virtually identical design to the facility at Three Mile Island, even though it went on line in 1975 and TMI had been in operation only about three months.

The plants share other similarities: They are near the capitals of their states — TMI about 16 miles from Harrisburg, and Rancho Seco about 20 miles from Sacramento. And about a year ago, on March 20th, 1978, Rancho Seco came uncomfortably close to a core meltdown when a light bulb broke, short-circuited the control board and caused an excessively rapid temperature change in the reactor water cooling system.

A history of problems

Rancho Seco's shutdown by the NRA in April is only the latest in a long series. The state's largest operational nuclear plant, the 913-megawatt facility is owned by the Sacramento Municipal Utility District (SMUD). Problems began the week the plant opened, causing its temporary closure. Later, after being licensed in April 1975, the Babcock and Wilcox plant continued to be plagued with malfunctions, breakdowns and operational problems that caused shutdowns of varying lengths.

In the first 18 months of operation, Rancho Seco was shut down 13 months. On June 30th, 1975, rotor discs in the low pressure turbines failed. There was extensive damage to the control rod motors when an operator tested them without adequate water cooling, an error that resulted in seven months of expensive repairs. Then the plant was down from April to October of 1976 because a faulty generator had to be rewound. In 1975 the performance record was 26 percent of design capacity; in 1976 it was 29 percent.

In 1977, Rancho Seco had its first refueling, which took more than two months. Performance that year was 76 percent. In 1978 it slipped back to 65 percent. From 1975 through 1978, the plant's overall performance record was about 50 percent — 15 percent under the national average. Ron Rodriguez, plant supervisor, estimated that about 39 of

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Hal Rubin, a professor of journalism at Sacramento State University and a frequent contributor to the Journal, *was employed by an aerospace firm for 10 years as a senior technical editor and worked for two years on the nuclear-engine program.*

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the 59 shutdowns were due to some type of equipment malfunction, and the rest to human error.

Because of the 1975-76 outages, Rancho Seco could not meet its obligations to Pacific Gas and Electric Company, and the private utility is suing SMUD for $70 million. SMUD hopes to pass any settlement costs on to Bechtel Corporation (mechanical and electrical features), Babcock and Wilcox (nuclear reactor) and Westinghouse Corporation (turbine-generator systems). Several years ago SMUD was considering adding Rancho Seco 2 and maybe even a third system. Such additions are no longer very likely.

An uncertain future

The uncertain future of Rancho Seco is only one small piece of the big nuclear-power puzzle. Five years ago the industry was growing fast. About 1,000 nuclear energy plants were expected to provide about half the nation's needs by the year 2000. Estimates now are that 230 new plants will be added by the turn of the century to the 72 that already have operating licenses. Forty-one reactors were ordered in 1973; last year only two reactors were ordered in the United States, although the industry can turn out 25 to 30 reactors a year.

The industry blames many of its problems on the Carter Administration for what it considers an indecisive energy policy. But another factor is an unexpected drop in demand for electricity, due in part to conservation practices by the public. As a result, many utilities have an average surplus generating capacity of about 35 percent. Because of these developments, new orders for the nuclear industry have been sharply curtailed. The bad news from Pennsylvania is another body blow to an already groggy industry.

Both utility officials and their critics agree that Three Mile Island will add billions of dollars to nuclear generating costs, which are already significantly higher than predicted 20 years ago. At that time some proponents claimed that electricity from nuclear power plants would be too cheap to meter.

Inflation and federally required changes in safety design have raised the cost of a 1,000-megawatt plant like Rancho Seco from $550 million to about $1 billion. Opposition from environmentalists has added three years of expensive litigation to the eight years it takes to get a plant built and licensed, according to the Atomic Industrial Forum, the industry's main trade association. Now fallout from Harrisburg is likely to further raise costs through new requirements, more stringent operating procedures, design changes and more frequent plant shutdowns.

Because of these developments, nuclear-energy critics are likely to increase their emphasis on costs. They have begun to argue that cost data for electricity produced by nuclear plants is unrealistic. According to their analysis, kilowatt-hour data (mills for a kilowatt-hour) fail to include a wide variety of governmental subsidies for reactor research, fuel processing, waste disposal and decommissioning. More than $9 billion of federal money has gone into the nuclear energy program, but none of that is indicated in nuclear plant costs, the critics say.

Despite Three Mile Island and the growing chorus of critics, advocates of nuclear power in industry and government maintain faith in their technology. General Electric, Westinghouse, Edison Electric and PG&E are convinced that the technical problems associated with the nuclear age can be mitigated.

Llewellyn King, publisher of the *Energy Daily*, expresses their conviction: "America's well being is symbiotic to its technological success. Energy and technology are the bulwarks of American civilization."

Carl Walske of the Atomic Industrial Forum stresses that nuclear energy is already an essential source of power, providing 12.5 percent of the nation's electricity. Eighty percent of the electricity produced in Vermont comes from nuclear power; in Maine 65 percent; and in Connecticut and Nebraska 50 percent or more. In the six western states only about four percent is derived from nuclear sources, mainly because power is available from hydroelectric dams.

The industry is convinced that nuclear generation of electricity is safe, reliable and economical. It insists that no other industry operates under more stringent occupational and environmental safeguards.

According to King, "The only logical substitute for nuclear power in the United States is coal, and its price and environmental damage in human life is infinitely higher than that for a nuclear-based electric supply system."

And Walske adds, "The public has to be more realistic. There is a risk, but it's not particularly large compared to risks from other energy sources."

The industry sees no insurmountable technical problems in the ultimate disposal of radioactive wastes. Acceptable methods such as burial in underground salt mines are feasible, but the federal government has failed to implement available technology, according to industry officials.

Speaking for the electric companies, the Edison Electric Institute recently urged prompt action by the Carter Administration: "These steps are necessary to assure the continued operation of nuclear power plants, to minimize the uncertainty that has been slowing down commitments for future nuclear plants in this country and to separate the waste disposal issue from the licensing of nuclear power plants."

Edward Teller, a senior research fellow at the Hoover Institution of Stanford University, believes nuclear power is the key to the energy future: "One nuclear reactor replaces 40,000 barrels of oil per day. Together, the 72 nuclear

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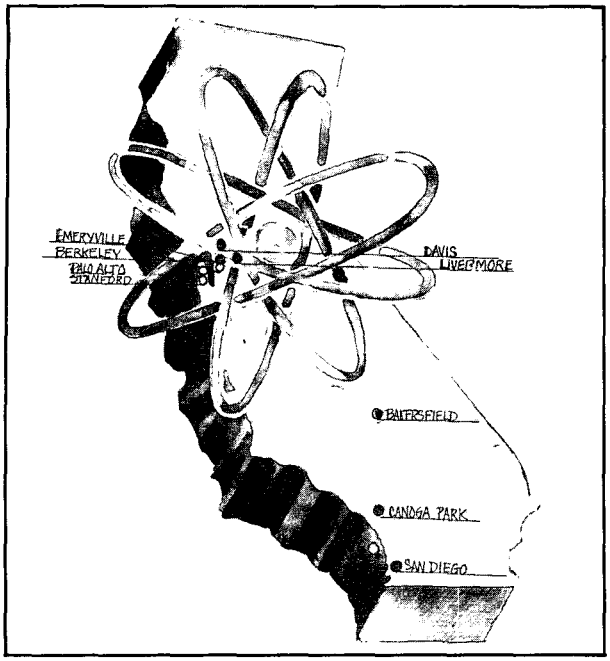

RADIOACTIVE RESEARCH

Nuclear-age health and safety problems are not limited to commercial reactors. A number of small reactors used in research and education and the production of isotopes will also require decommissioning.

Substantial amounts of radioactive material are used for nuclear weapons research and production and for physics and biomedical research in California. Some of the prime contractors include the Lawrence Livermore Laboratory, Lawrence Berkeley Laboratory, Stanford Linear Accelerator Center, Atomics International in Canoga Park, General Atomics in San Diego, and General Electric at Vallecitos, near Livermore.

Although there has been no significant uranium milling in California, some companies are interested in low-grade uranium deposits near Bakersfield. Rising uranium prices may make mining such deposits feasible. In addition, California has large deposits of thorium, which may be substituted for uranium, and the state may develop a large industry devoted to thorium mining and milling. Plants dealing with both materials would have to go through complex decommissioning procedures.

Induced radioactive contamination in accelerator structures, biological shielding and beam dumps make retired accelerators a potential health hazard. Site restoration after shutdown of an accelerator requires that all significant surface contamination and induced radioactive material in the facility be removed.

Among the facilities under state jurisdiction that might produce significant amounts of induced contamination are the Crocker Nuclear Laboratory and Cyclotron at the University of California, Davis; Cyclotron Corporation in Berkeley; Medi-Physics Incorporated in Emeryville; and Varian Associates in Palo Alto.

reactors in the United States replace three million barrels of oil per day. Power-generating reactors are less dangerous than any other means of producing energy. A full employment of nuclear reactors could reduce the demand for oil in the 1990s by 30 percent. This would solve the energy crunch."

Utility officials blame the anti-nuclear activists for obstructionist tactics that slow the licensing process and increase costs. It now can take as long as 12 years to license a plant. And there won't be enough time to replace lost nuclear power with electrical generation from coal, oil or natural gas, they say. "The resultant shortage will be severe enough to bring the threat of regional recession to some parts of the country by the mid-1980s," the utilities warned in a recent issue of the *Wall Street Journal*.

The overshadowing question

While critics and proponents argue about need, cost and safety issues, another question over-shadows all others: What happens when a nuclear power plant must be decommissioned? In all likelihood, the plant at Three Mile Island can no longer be used. If so, then nuclear engineers may be called upon to achieve the first decommissioning of a full-scale facility under a staggering array of negative conditions. They include premature shutdown after a major accident, serious damage to the reactor core, extreme contamination of the containment building and other structures, and 100 tons of partially melted fuel. When the accident occurred at TMI, the NRC was trying to formulate a policy for dead reactors. No one really knows how to deal with the problem. Mothballing or entombment do not appear to be feasible unless the fuel is first removed. That cannot be done since workers would be subjected to immediately fatal exposure. Can the containment building be opened without releasing dangerous amounts of radioactivity into the atmosphere?

Senator Gary Hart of Colorado called the Three Mile Island plant a "billion-dollar mausoleum." Robert Bernero, a senior engineer at NRC has said, "The only politically acceptable solution is to dismantle the reactor and go bury it away from populated areas." But a high-level team of NRC and Babcock and Wilcox engineers isn't sure the dismantling job can be done. And TMI is only the first plant. Eventually every nuclear plant built must be decommissioned, and experts do not agree on how to do it. Critics of nuclear energy insist that Pandora's box, once opened, cannot be closed.

Lifespan of a reactor

Reactor lifetimes are about 30 years, according to D. G. Raasch, a veteran of the nuclear industry and chairman of a SMUD committee that is studying the eventual decommissioning of Rancho Seco. Raasch says that the critical element governing the life expectancy of the plant is the reactor vessel itself. Intense radiation eventually embrittles the steel walls of the vessel that houses the core. After 30 years of plant operation, the vessel develops stresses that reduce its ability to withstand operational conditions.

A secondary limiting factor in plant life is the amount of available storage space for spent fuel. Every plant in the country was designed with the idea that spent fuel would be reprocessed for further use, according to Raasch. Then the Carter Administration turned thumbs down on reprocessing because it creates plutonium that can be readily used for nuclear weapons. As a result, on-site storage pools are rapidly filling up. At Rancho Seco there is only on-site space for spent fuel through 1984.

Rancho Seco has 27 more years of operational life if the storage problem is resolved; San Onofre 1 has about 20 years remaining. Humboldt Bay, which was operated for about 14 years of its expected 30-year lifespan, is being considered for

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permanent shutdown because of seismic problems. If this happens, the Humboldt Bay facility will become the first commercial reactor in California that will require decommissioning.

A tally of the nuclear power facilities that will eventually require decommissioning indicates the scope of the problem. Twenty-two countries now have 200 licensed power reactors; more than 320 reactors are under construction or on order. Despite a definite slowdown recently in nuclear power activity, the United States has 72 power plants in 27 states, and 90 more are being built. By the year 2000 the nation is expected to have 264 plants on line. Nuclear energy already provides one-eighth of the electric power generated in the nation.

Furthermore, licenses for commercial nuclear activities in areas such as medicine and industry now stand at about 19,000. Numerous other kinds of nuclear facilities exist. The NRC also regulates more than 73 smaller non-power reactors used for tests, research and university applications. The Energy Research and Development Administration (ERDA) owns about 80 such non-power reactors, which are smaller than the commercial variety. The military owns an additional 174 reactors, most of which belong to the Navy and are used in nuclear submarines and carriers.

Two federal agencies, the NRC and ERDA, are responsible for monitoring the operation of civilian nuclear facilities. The Environmental Protection Agency (EPA) has overall responsibility for issuing standards for the protection of the environment from all sources of radiation, and the 50 states have traditionally been responsible for controlling the hazards of using accelerators and radium. But because of their enormous size and their large inventory of induced radioactivity, nuclear power reactors monitored by the NRC present the nation with its biggest decommissioning headaches.

The 'Nukey Poo' story

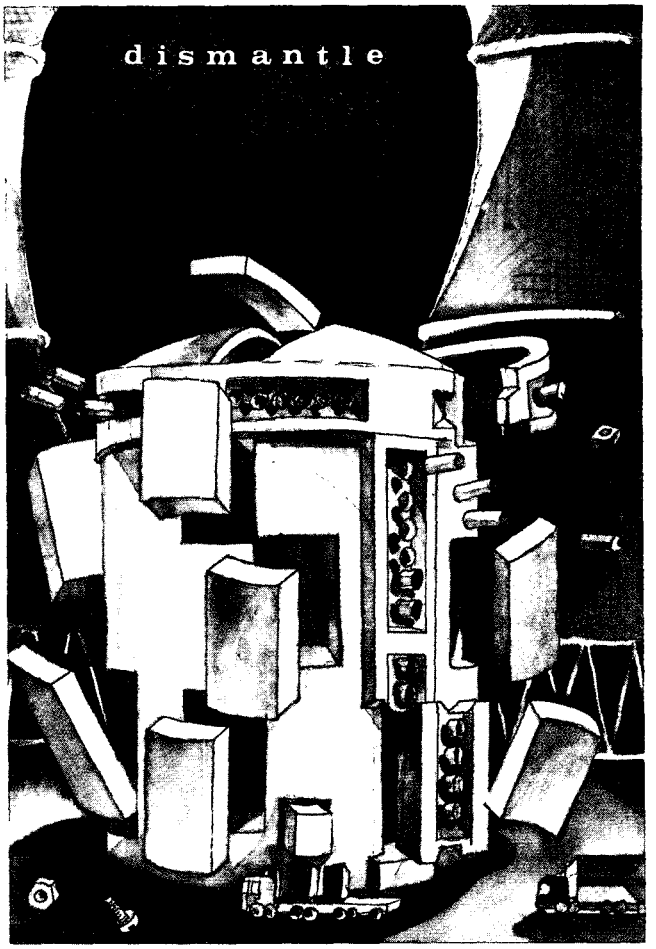
The technical and financial problems of disposing of the nation's nuclear power plants will be enormous. They are merely suggested in the case of a portable, 413-ton prefabricated nuclear power station installed at McMurdo Naval Air Station in the Antarctic in 1961. The reactor was officially designated PM-3A. Unofficially it was christened "Nukey Poo."

Nuclear power was being hailed in the early '60s as a breakthrough that would revolutionize Antarctic living and provide cheap electricity in a frigid land where diesel fuel for conventional generators was then $6 a gallon. Within a year of startup though, Nukey Poo was out of operation for eight weeks due to a hydrogen fire in the containment tank. Other operational problems continued to plague the facility.

In 1971, a relatively trouble-free year, Nukey Poo was producing only part of the time. Even when it was operating it produced at less than design output. In 1972, after 11 years of operation, Nukey Poo was shut down for the last time, amid rumors that a nuclear spill had occurred. Later the *U.S. Antarctic Journal* reported that Nukey Poo had been shut down because wet insulation had been found around some pipes. Repairs would cost up to $2 million and subject repair technicians to unacceptable radiation doses. Instead of making repairs, the Navy decided to dismantle PM-3A and go back to diesel power.

Then the Navy Nuclear Power Unit prepared a removal plan for the facility, which disclosed that during its 11 years of operation cracks had been detected in the containment vessel three times. Shield water had soaked into the backfill and a slightly radioactive effluent had soaked into the soil.

Because the Antarctic Treaty bans disposing of radioactive wastes, it was decided to remove any soil in excess of U.S. and Soviet standards. By 1976, the Nukey Poo facility had been dismantled and buried in Georgia, together with 101 55-gallon drums of radioactive soil, the hottest of which had to



be wrapped in lead.

Finally the NRC decided that all of the soil contaminated with radioactivity had to be removed. The Navy dug down 15 meters, removed about 6,500 cubic yards (8,000 tons), and shipped the load to Port Hueneme in Ventura County. Later, 4,200 additional tons of soil had to be transported to California for disposal.

No cost breakdowns are available for guarding the carcass of Nukey Poo at the nuclear graveyard in Georgia or for the transportation and disposal of 12,000 tons of contaminated soil in California. The total could be expected to go well beyond the original $3 million installation cost of the small facility.

How to decommission

The NRC describes four methods for decommissioning spent reactors under normal circumstances:

- ***Dismantlement.*** According to the NRC, this involves the total removal of the facility from the site to radioactive waste burial grounds. The land is then restored to its original condition and released for unrestricted use. The major problem involves the radiation hazards from large amounts of induced radioactivity. To protect workers engaged in the dismantling activities against excessive doses of radiation, much of the cutting of the reactor parts must be done with remotely controlled equipment underwater — a costly and time-consuming process.
- ***Entombment.*** This method consists of sealing the reactor with concrete or steel after all liquid waste, fuel and surface contamination has been removed and then sending it to fuel storage facilities or burial grounds. The NRC does not require an entombed facility to have security systems to protect against intrusion. However, it does require annual surveillance for possible radiation leaks. Also, periodic maintenance is required to insure the integrity of the entombed structure.
- ***Mothballing.*** This is simply removing the fuel and

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The Politics of Nuclear Energy

An issue as controversial as nuclear energy cannot avoid political and legal overtones. It may become a key to the 1980 presidential campaign, because President Carter and Governor Brown stand poles apart on the issue. Their long-standing disagreement over nuclear power was sharpened in November 1978. As a result of a national energy study by the Carter Administration, California was told then, in effect, that it needs 32 nuclear power plants to meet its energy needs by the year 2000 — more than any other state.

Although the projection issued by the Commerce Department assumed California will have significant growth in alternative energy sources — solar, wind, biomass, geothermal and cogeneration — nearly half of the state's electricity-generating capacity would come from nuclear plants under the Carter Administration plan. According to the projection, California would have to build 29 additional nuclear plants during the next 22 years to keep pace with its rising energy requirements — or one every nine months.

The Commerce Department's survey of long-term U.S. energy needs and sources of supply directly contradicts the Brown Administration's view that California could do without nuclear power plants for the foreseeable future. Authors of the study conceded that there are safety problems inherent in the development of nuclear energy and that their suggested goals would not be easy to achieve. But they warned that the types of alternative energy paths recommended by Brown and other critics of nuclear power could lead to even more serious consequences and potentially drastic lifestyle changes.

The Brown Administration responded that it would consider going to coal-fired plants, if necessary, as a stop-gap measure until alternative technologies are fully developed.

Windmills versus fission

In California it has been woodchips and windmills versus nuclear reactors ever since the Brown Administration took over. Nuclear energy had been a divisive issue between the Governor and the President long before Three Mile Island.

By education and training Carter is a technocrat and a nuclear advocate. Fission represents technological progress to him. Brown, despite his reversals and compromises on other issues, has stood by his disavowals of nuclear power. California is one of only three states in the nation to resist federal pressures to go nuclear. The incident at Three Mile Island occurred just when it seemed the nuclear establishment and its supporters in the state Legislature might scuttle Brown's Energy Commission and the nuclear moratorium it has maintained.

The near-disaster in Pennsylvania enabled the Governor to legitimize his anti-nuclear position, and he handled the opportunity with customary finesse. He urged the SMUD board to close down Rancho Seco and quickly named a special committee to review plans for handling nuclear emergencies. He was criticized by anti-nuclear activists, however, for leaving on an African safari at the peak of the debate.

While Brown was gone, the scenario in Sacramento looked like scenes from *The China Syndrome*. There was an all-night candlelight vigil beneath the cooling towers at Rancho Seco. A crowd of protesters — mainly high-school and college students — sang "Close it down, kum-ba-ya."

At the Capitol, Senator John Garamendi conducted a hearing in which Dr. John Gofman, co-discoverer of U-233 and a cancer research specialist at the University of California, Berkeley, charged the nuclear establishment with covering up the real dangers posed by low-level radiation. Gofman called the pro-nuclear scientists "the nuclear Mafia." He said that scientists who have tried to tell the truth about the danger of radiation from nuclear plants have lost their jobs and have had their government research grants cancelled. Senator Garamendi promptly introduced three bills in the Legislature to improve California's emergency response to a nuclear plant accident.

Legal battles

California's position in the nuclear debate has produced legal battles, too. About three weeks before TMI, a U.S. District Court judge in San Diego struck down as unconstitutional a 1976 law that has blocked further development of nuclear power plants in the state.

The law requires that the State Energy Commission determine that a demonstrated technology or means for the disposal of high-level nuclear wastes exists before authorizing construction of a nuclear plant. Federal Judge William Enright ruled that the law was null and void because the field is pre-empted by federal law.

He said that the 1976 statute stands as an obstacle to the purpose and objectives of Congress as stated in the Atomic Energy Act of 1954, as amended in 1959. The statute had been adopted by the Legislature to give voters a more moderate alternative to the Proposition 15 initiative ballot measure of the 1976 primary. Proposition 15 would have effectively banned nuclear power from the state. After the statute was adopted, the initiative failed.

The case was brought to court by a conservative public-interest law firm, the Pacific Legal Foundation. Ronald Zumbrun, president of the foundation, praised Enright's decision for "taking away the Energy Commission's ability to stifle nuclear development in California." Other plaintiffs included the San Diego Coalition, the San Diego section of the American Nuclear Society, and the San Diego County Building and Construction Trades Council.

Richard Maullin, Energy Commission chairman, was not surprised by the decision. "It is not uncommon for a lower-level federal court to assert strong federal powers over a state," he said. Maullin says he is confident that California's nuclear safeguard laws are constitutional and he will recommend to the commission that it appeal the decision. The case might reach the U.S. Supreme Court, but it would go first to the Ninth Circuit Court of Appeals.

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radioactive waste and then placing the facility in protective storage. A mothballed facility requires a security system to prevent intrusion, annual radiological surveys and periodic maintenance. Both mothballing and entombment permit certain amounts of induced radiation and surface contamination to remain on the site.

• ***A combination of mothballing or entombment, with subsequent dismantlement.*** This method is said to offer the advantage of placing the facility in an entombed or mothballed status for about 65 to 110 years, until the induced activity decays to a level that permits dismantling without undue radiation danger to the workers. The entombment and mothballing methods and the combination method would limit the use of the affected land.

A fifth potential alternative recently offered by the nuclear industry is to convert the facility to a new nuclear system or to transform it into a fossil fuel system.

The NRC reports cite the existence of extensive reactor decommissioning experience with more than 65 experimental and demonstration reactors. But actually only one reactor has been completely decommissioned: a small boiling water reactor at Elk River, Minnesota. The decommissioning of this 53-megawatt reactor represents most of the nation's experience, particularly in the use of remotely controlled cutting equipment to remove highly radioactive pressure vessels and in the use of explosives to demolish concrete containment structures. The other reactors have been mothballed or entombed.

To the burial ground

Decommissioning and dismantling require use of remotely controlled torches (perhaps laser beams) operating under water to cut up the carbon-steel pressure vessel, nearly a foot thick, enclosing the reactor. The containment building is a steel-lined and reinforced-concrete shell with 3½-foot-thick walls. These would have to be blasted apart, together with the 5-to 10-foot-thick concrete shield around the pressure vessel. Cooling towers, generators, turbines and condensers also would have to be dismantled and disposed of. Tens of thousands of tons of contaminated metal, wood, concrete, liquids and soil would have to be transported long distances and disposed of at a perpetually guarded burial ground. Then attempts would be made to return the site to its original condition.

Like many nuclear engineers, Raasch at SMUD is confident that time will provide what are known in the trade as "technofixes." Speaking three weeks before the accident at TMI, he said "Firms that are planning ahead for shutdown are including some funds for research and development in their costs . . . laser cutting and things like that." He said that the techniques are not unproven; they just haven't been used in large projects so there are some uncertainties.

"If I were trying to do this in five years, I would be concerned. For any plant that is from 10 to 30 years down the road (from decommissioning) I don't have any personal concerns that they won't have the techniques available. We would probably hire someone. By that time there will probably be some companies that are pretty good at this business."

Cleaning the remains

In 1977 the comptroller general of the United States submitted a report to Congress called "Cleaning Up the Remains of Nuclear Facilities — A Multibillion Dollar Problem." The report said that many different types of nuclear facilities can become a danger to public health and safety, and that each type will have to be handled or decommissioned in a different way.

Two types of nuclear facility hazards are described:

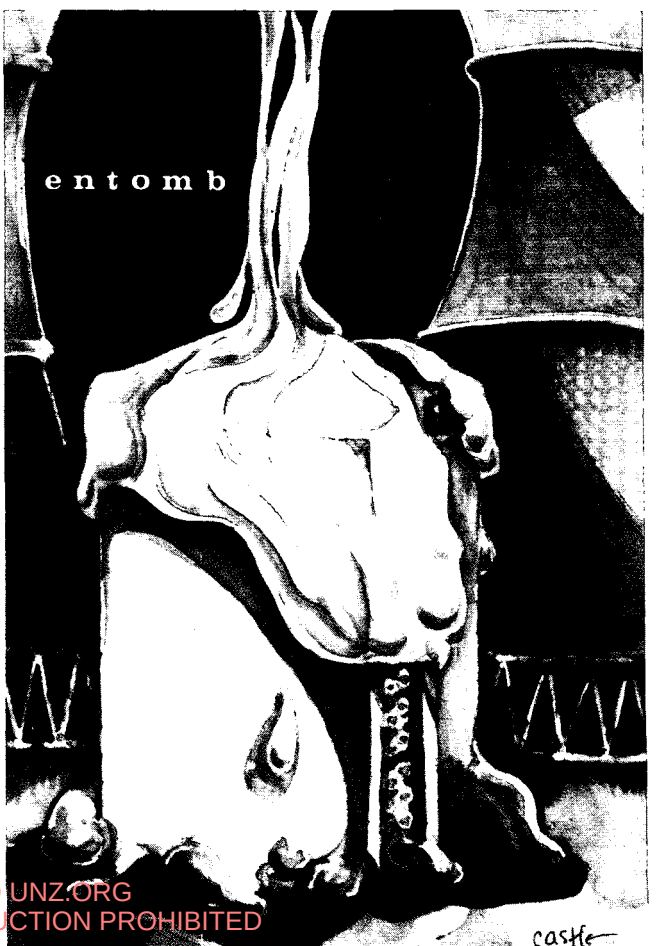
• *Induced radioactivity* results from a nuclear reaction and is embedded in the equipment or material coming into contact with the nuclear reaction. This induced activity cannot be cleaned up and can remain dangerous for thousands of years. "For this reason a structure containing induced radioactivity should be dismantled eventually, preferably before the structure begins to deteriorate and allows the radioactivity to enter the environment," the comptroller general recommended.

• *Surface contamination* results from facilities or equipment coming into contact with radioactive material. Material having surface contamination can often be cleaned up by scrubbing and washing.

The comptroller general's report also noted that "decommissioning is a term used by the NRC and ERDA to indicate the closing or shutting down of a facility with some actions taken to prevent — at least temporarily — health and safety problems. It does not necessarily denote a permanent solution to cleaning up the facility."

The report concluded: "The problem of protecting the public from the hazards of radiation lingering at nuclear facilities which are no longer operating needs federal attention if a strategy for finding a solution is to be developed. The problems that nuclear-related operations leave behind are increasing because of the expansion of nuclear technologies. All of those involved — the Energy Commission, state governments and industry — are partly to blame for what has happened." The report called for specific plans for decommissioning at the time of licensing and said the cost of decommissioning should be paid by the current beneficiaries, not by future generations.

Long-lived isotopes such as carbon-14 and iodine-129 are rated as low-level wastes and can be disposed of by shallow burial. But they will be hazardous for thousands of years, so they cannot be left within a mothballed or entombed facility that was not designed to remain structurally sound for that long. Yet some scientists argue that for isotopes with intermediate half-lives, like cesium-137 or strontium-90, the entombed reactor could be maintained for several hundred



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Nuclear Plants in California

Nuclear power never quite made it in the West the way it did in the East. California had the nation's first licensed power reactor at Vallecitos, a small facility that went on line in 1957. The plant was mothballed in 1963 because it had become obsolete. Sixteen years later it is still radioactive and off limits.

Here is an outline of California's nuclear-plant history and its current facilities other than Sacramento's Rancho Seco:

Humboldt Bay Facility. Lying 280 miles north of San Francisco at Eureka, this was one of an early line of small reactors (63 megawatts). Operated by Pacific Gas and Electric, the facility was activated in 1963. Between that year and 1971, it was shut down 35 times due to malfunctions.

General Electric manufactured the reactor, which was one of the plant's troublesome components. Reactor rods holding the uranium fuel pellets were fabricated of stainless steel, and the material had a tendency to crack during reactor operation.

In September 1965, after the plant began to release excessive amounts of radioactive vapors, Humboldt was shut down for three months while the stainless steel rods were replaced with zircaloy. When radioactive gas emissions continued to increase, PG&E asked the Atomic Energy Commission to grant a fourfold increase in the average allowable emission rate for radioactive gases. After that request was refused, PG&E was forced to operate the plant at 40 percent of rated capacity. Even so, monitoring devices posted around the Eureka area indicated that emissions had knocked the devices off the upper end of the scale. Robert J. Rowen Jr., a PG&E employee, found some of the highest dosimeter readings at the South Bay elementary school across the street from the plant. When Rowen confronted his supervisors with this and other instances of contamination, he was warned to show a better attitude. He continued to report violations of safety procedures and was fired. After looking into Rowen's claims, the AEC charged PG&E with two violations and rebuked the firm for several instances of negligence. A subsequent grand jury investigation asked the AEC to do a more thorough job of monitoring and inspecting the Humboldt plant.

Active earthquake faults were discovered near Humboldt Bay and the NRC ordered the facility closed in 1977, probably for good. PG&E, however, would like to put the plant back on line.

San Onofre 1. This 450-megawatt facility, about halfway between Los Angeles and San Diego, has been operated by Southern California Edison and San Diego Gas and Electricity since 1968. During the first six months of operations, the reactor was shut down six times. In 1968 the plant had three serious accidents, two of which occurred when overloaded power cables caught fire. The second fire caused damage that took six months to repair. Subsequent leaks, breakdowns and outages have occurred since then. The latest shutdown in April 1979 was attributed to problems in the steam generating unit.

Under construction since 1974, San Onofre 2 and 3 are scheduled for completion in 1980 and 1981, respectively. The two new facilities will cost $2.4 billion; each will generate 1,300 megawatts. When San Onofre 1 was built, company officials said there were no known earthquake faults near the plant. Then in February 1971, a previously inactive fault north of Los Angeles caused $1 billion in property damage in Los Angeles County.

Although the quake was far enough away not to damage San Onofre, the AEC ordered Southern California Edison to increase the seismic resistance of the two new plants that were then in the design stage. Environmentalists plan to oppose licensing because of seismic dangers.

Diablo Canyon 1 and 2. On the coast near San Luis Obispo are two 1,100-megawatt reactors built for Pacific Gas and Electric. Despite pre-construction warnings by a California Polytechnic Institute geologist about a possible fault zone just off the coast, PG&E forged ahead. The still-unlicensed facilities were started in 1968 and completed in 1973, amid almost continuous litigation with area residents and environmental groups. Original cost estimates for the facility were $350 million; final cost was $1.4 billion.

In 1973, when the plant was completed, the U.S. Geological Survey confirmed the presence of the Hosgri fault, which is linked to the San Andreas fault. Studies indicated the possibility of an 8.0 Richter-scale earthquake, so PG&E was ordered to strengthen the structure. The utility claims it has now satisfactorily buttressed and modified the plant to prevent serious seismic damage.

The NRC had been expected to grant a license to put the Diablo Canyon reactors on line last month. But the accident at Three Mile Island and new concerns about safety factors have further delayed the licensing. Area residents and environmentalists have mounted fresh efforts to prevent Diablo Canyon from being activated.

Sundesert. For several years the San Diego Gas and Electric Company sought permission to build the Sundesert Nuclear plant near Blythe in Riverside County. A request to exempt Sundesert from the 1976 Nuclear Safeguards Act was turned down in 1977 by the State Energy Commission. That act precludes the further construction of nuclear power plants in California until there is a satisfactory method for disposing of nuclear wastes.

Senator Newton B. Russell last year authored a bill to exempt Sundesert and he got it through the Senate, but the bill died in the Assembly Resources, Land Use and Energy Committee. Nuclear proponents strongly criticized the State Energy Commission for refusing to give Sundesert an exemption.

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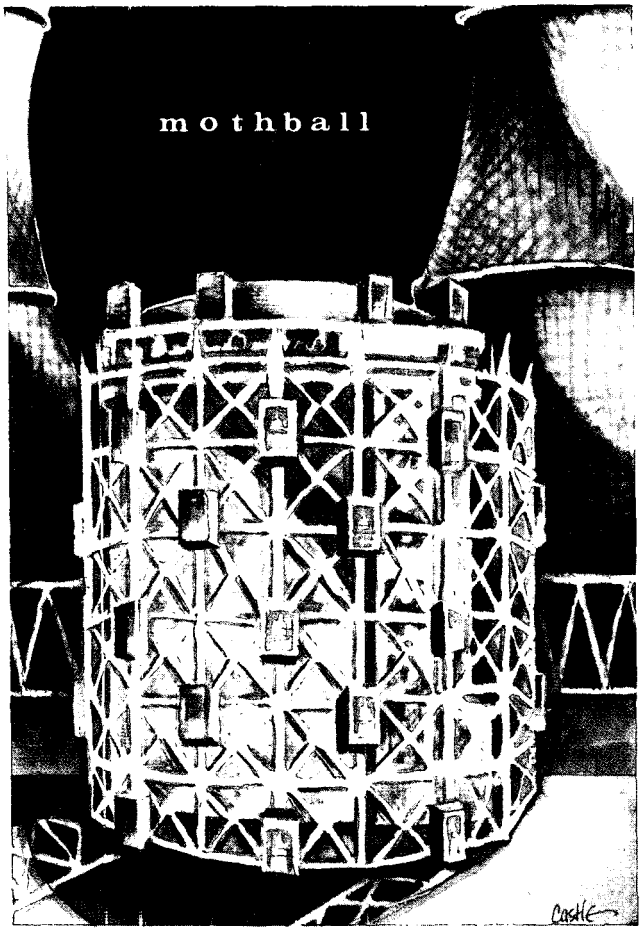

years while the radioactivity decays.

In a 1976 study, the Atomic Industrial Forum recommended that dismantling of all plants be delayed because of the abundance of cobalt-60 in reactor vessels and internals. By waiting for 65 to 104 years, depending upon the type of reactor, cobalt-60 would decay enough to enable manual (as opposed to remote) removal of the reactor vessel and internals, the study said.

There are still other problems. Some scientists believe it would be safest to dismantle a facility and dispose of the pieces in a licensed disposal facility. Yet others are critical of present federal waste disposal policies and the management of the nuclear burial grounds. They argue that it may be safer to leave certain isotopes within a mothballed or entombed reactor. The same group argues that shipment of radioactive wastes exposes the public to direct radiation and dismantling exposes the public to airborne particles.

Nor are the problems limited to dismantlement and disposal. The potential financial and legal issues are equally complex. Reliable cost estimates are unavailable because data from small-scale reactors cannot be reliably extrapolated to the 1,000-megawatt giants. In addition, nearly all of the so-called decommissioning experience to date has involved mothballing, even though dismantling is likely to be the most acceptable option for large facilities.

Government and nuclear industry studies place the decommissioning and dismantling costs for a large reactor at $25 to $30 million. Studies made by some of the utilities that operate nuclear power plants show costs ranging between $90 and $100 million. Still other estimates, which include inflation-afflicted dollars of the future, put the cost at $1 billion.

Thus, three decades into the nuclear era, some vital questions remain unanswered: Who pays for the eventual decommissioning and dismantlement? How and when should payment be made? What happens if a public or privately owned utility becomes insolvent before it has met all of its long-term financial obligations for a nuclear facility? Who pays if a facility is shut down prematurely before installation costs have been amortized?

Such questions are not hypothetical. In New York, the West Valley atomic fuel reprocessing plant was owned by Nuclear Fuel Services (NFS), a subsidiary of the Getty Oil Company. In 1972, after seven years of operation, NFS went out of business. In this case the state of New York shared ownership with NFS, and the General Accounting Office held the state liable. Last February the Department of Energy announced that it will cost more than $1 billion to disassemble the facility and dispose of the wastes.

In California, the 14-year-old Humboldt Bay reactor is being considered for permanent closing because earthquake faults have been found nearby. In Illinois, the 17-year-old Dresden reactor may have to be shut down because high levels of in-plant radiation preclude the performance of routine maintenance. Higher-than-anticipated radiation levels have already been reported at the four-year-old Rancho Seco plant near Sacramento. In Michigan the Fermi 1 plant sustained a partial core meltdown that forced premature shutdown and mothballing.

Although Rancho Seco was activated in 1975, SMUD does not yet have a decommissioning plan nor has it set up a funding system to pay for the operation. Raasch said no specific plans have been made, primarily because the federal government and the NRC are still developing their own regulations and guidelines to deal with such problems. However, he said that the study he is currently directing will suggest some type of funding setup.

Asked what would happen if the plant had an early demise, Raasch said, "There is no contingency to take care of a premature shutdown."

Two years ago the Public Interest Research Group (PIRG) and others petitioned the NRC to devise regulations for nuclear power plant decommissioning that would require operators to post bonds or establish sinking funds prior to each plant's operation. Such a measure would ensure that funds are available for proper and adequate isolation of radioactive material upon each plant's decommissioning. These regulations would apply to existing and future plants.

At present the NRC requires only that a prospective reactor operator demonstrate to the NRC's satisfaction that the owner has sufficient financial strength to pay the costs of decommissioning at the time when the reactor is retired. According to the NRC, it does not require a plan at the time it licenses a reactor facility because current decommissioning technology will probably be obsolete when the facility is ready for deactivation.

505,000 years

In 1976 the Atomic Industrial Forum made its own study, "An Engineering Evaluation of Nuclear Power Reactor Decommissioning Alternatives."

One of its conclusions dealt with the time factor: "For the primary mothballing and entombing alternatives, this study has found that the termination of a possession-only license would require the passage of about 505,000, 234,000, and 51,350 years for pressurized-water reactors, boiling-water reactors, and high-temperature gas reactors, respectively. These very long durations of the mothballing and entombment periods are due to the time that is necessary for nickel-59 (in light-water reactors) and carbon-14 (in high-temperature gas reactors) to decay to acceptably low activities.

"Even though it could probably be demonstrated that permanent mothballing and permanent entombing are feasible alternatives for reactor decommissioning, they are unlikely to be practical solutions for the permanent disposal of such facilities."

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Let your mind drift ahead to the summer of 1980 and a hypothetical press conference in San Francisco. President Carter is trying to woo California voters for his campaign to win a second term.

"Mr. President," a reporter asks, "have you ever smoked marijuana? Would you support legalization of pot?"

If Mr. Carter does his homework on marijuana effects — not only on people who smoke it but also on politicians who talk about it — he'll respond very carefully.

Marijuana is already a burning issue in California, and it will be even more controversial next year if voters who mark ballots in November 1980 also are asked to decide whether pot should be legal in the state.

A reluctant California Legislature, despite public opinion polls in support of more liberal marijuana laws or none at all, leaves pro-pot forces with only one choice: the initiative route.

A ballot measure next year is the goal of the National Organization for the Reform of Marijuana Laws (NORML). Gordon Brownell, director of NORML's western regional headquarters in San Francisco, claims that 14 percent of California's eligible voters smoke marijuana, and he threatens to mobilize them behind a NORML-sponsored initiative campaign if the Legislature doesn't ease the marijuana laws this session.

Political impacts

Last year the media gave a lot of time and space to the responses of candidates to marijuana questions. The impact of this issue may have contributed to several candidates' victories or defeats. For example:

- ***Ken Maddy,*** a Fresno assemblyman seeking the Republican nomination for governor, admitted during the primary campaign last spring that he had smoked marijuana in the past. He lost. Maddy also opposed Proposition 13, but did his admission to having broken the law cost him votes?
- ***Evelle Younger,*** then attorney general and the Republican nominee for governor, said he never has and never will smoke pot. But he did say fighting its legalization would be futile in the face of legislative sentiment he perceived. The statement flabbergasted some of his law enforcement supporters and outraged others. Younger is out of politics.
- ***Jerry Brown*** responded that he hasn't tried marijuana. Furthermore, he said there is no legislative appetite for further decriminalization. Brown is serving his second term as governor.

Fighting every step

So where is California headed in the controversy? Should marijuana laws be stricken or at least relaxed even more than the 1975 bill that cut penalties for possession? Supporters of pot smoking believe total legalization is inevitable within a few years. Opponents plan to fight it every step of the way. But unless convincing medical research on harmful effects is produced, pro-pot forces are convinced that they will ultimately prevail.

(Federal Health, Education and Welfare Secretary Joseph Califano reports little new research on marijuana effects in the past year. A national survey shows that 16.1 percent of people between 12 and 17 used marijuana in 1977 — a 12.4 percent increase from 1976.)

Governor Brown seems to be correct in his short-term assessment that no bill will reach his desk to further relax marijuana laws in 1979. The state Senate clearly is not in the mood. Even if the Assembly were to pass a pending bill by Democratic Assemblyman Willie Brown (AB 315), the upper house undoubtedly would defeat it. Brown's bill would reduce the penalty for growing small amounts of marijuana for personal use from a felony to a misdemeanor citation with a maximum $100 fine. That would make the law for growing an ounce or less the same as the three-year-old state law for possession.

But if Brown's bill dies this year, it has even less chance in 1980. The Legislature tends to avoid controversial topics when lawmakers' names are on re-election ballots.

"The political climate isn't right," says Brownell, when asked why his group isn't pushing for a bill now that would totally legalize marijuana. "We believe legalization is inevitable, but we're willing to take it one step at a time."

He calls Willie Brown's bill "a modest step," and he vows that its rejection by the Legislature will trigger an initiative for "total legalization" on the November 1980 ballot.

Marijuana initiative efforts aren't new in California. Since 1966 there have been seven, but only in 1972 did the measure go to the voters. It was soundly defeated with 66 percent of the voters in opposition.

Another initiative drive has begun already, mounted by

POT CAPITAL OF CALIFORNIA

THE DRIVE TO LEGALIZE GARBERVILLE'S BIGGEST INDUSTRY

By Ron Roach

Ron Roach is the Capitol correspondent for the San Diego Tribune.

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Barton Gilbert, a 26-year-old Burbank man who works in his family's dry-cleaning business. He wants to legalize marijuana and make it subject to the same laws which regulate liquor. Gilbert failed to get the necessary 350,000 signatures of registered voters on petitions by his May 4th deadline, but he has vowed to refile, pay another $200 fee, and gain another 150-day circulation period to qualify for the June 1980 ballot.

In Berkeley, voters this spring approved (17,718 to 9,314) an initiative declaring opposition to city spending to enforce marijuana laws. A similar vote in Berkeley six years ago was rejected by the courts as an infringement of state's rights. This year's initiative also directs city officials to "lobby" for legalized marijuana.

Changing attitudes

On another front, state Senator Barry Keene, a Democrat whose district includes the North Coast from the Oregon border to Marin County, is considering a bill that would legalize cultivation of marijuana. He is polling his constituents before submitting such a bill. Keene recognizes that success would not come overnight, but he is convinced that attitudes are changing. He cites a California Poll by Mervin Field, released in April, which found that 58 percent of California adults favor at least reduced penalties and 42 percent of them support legalization. Thirty-six percent favor strict enforcement of existing laws.

Keene says he is concerned about the legality of "the second or third largest agricultural crop" of his senatorial district. "The main thing that we see is a $300 million-a-year business in the heart of my district, in the Garberville area."

Garberville, a town of about 800 persons, is 200 miles north of San Francisco. In this area the soil and climate are ideal for the growth of marijuana of a quality and potency exceeding that of Mexico or even Colombia.

Felonious growing of marijuana has given Garberville a boom-town image. Newspaper feature writers often descend on the area to report that land values are up and expensive cars are parked along Main Street. Two decades ago, the town was thriving with jobs from 40 sawmills active in the region. Only two sawmills remain in operation, but at harvest time prosperity returns and a number of area residents have $100 bills in their pockets.

Growing marijuana is profitable — and especially so when it is illegal. Small operators frankly admit they are afraid of being pushed aside by well-organized and richly financed businesses which will move in if laws are changed.

The National Institute for Drug Abuse in Washington D.C. estimates that about 60 million people use marijuana in the United States, so there is a considerable market. A farmer can earn $25,000 to $50,000 a year from a 50-plant harvest. At least 50 tons of marijuana were harvested last year in Keene's district, according to law enforcement estimates. At $500 to $1,000 a pound for the choice purple kush, profits are astronomical.

'California Gold'

Keene argues that pot farms should be taxed and the product grown and processed to government-approved standards. Otherwise, he says, unsavory characters will move in and take over. Growers now are worried more about underworld-connected hoods ripping off their harvests than they are about breaking the law. The battle for "California Gold," as some call Northern California pot, could be reminiscent of claim-jumping during the last California gold rush more than a century ago.

In fact, NORML's Brownell says, "Law enforcement authorities estimate that in Humboldt, Mendocino and Trinity counties alone, commercial growers earn $900 million a year. Some California-grown marijuana sells, ounce-for-

Cancer, cultivation, clips and cars

A half-dozen bills dealing with marijuana were introduced in the Legislature this year, but only a couple of them appear to have a chance of passage.

The legislation and current status:

Medical Use.
Two bills would create a pilot project, under state supervision, to allow doctors to prescribe marijuana as a "last resort" pain reliever for cancer and glaucoma sufferers. One bill, SB 184 by Senator Robert Presley of Riverside, passed the Senate, complete with support from Senator John Briggs of Fullerton, who said it would provide long-sought medical evidence on marijuana. A similar bill, AB 241 by Assemblyman Herschel Rosenthal of Los Angeles, was pending on the Assembly floor. Proponents say neither bill should be considered a step toward legalization of marijuana.

Cultivation.
A bill by Assemblyman Willie Brown of San Francisco would make cultivation of marijuana with a harvest of an ounce or less of usable substance subject to a traffic-ticket-like citation and maximum $100 fine. Records of cultivation arrests would be purged. Growing any amount of marijuana is subject to felony prosecution under current law. The bill, AB 315, was pending on the Assembly floor, where a similar bill died last session. Brown appeared optimistic about his chances in the Assembly.

Devices.
A bill to prohibit sale of marijuana paraphernalia, such as "roach clips," was killed by the Assembly Criminal Justice Committee. It was AB 477 by Assemblyman Chet Wray of Westminster.

Schools.
A bill by Presley, SB 310, would increase penalties to up to six months in jail and a $500 fine for possession of any amount of marijuana on school grounds, and allow judges to sentence offenders to 10-day terms in juvenile halls or camps. The measure, approved by the Senate, is pending in the Assembly.

Motor Vehicles.
A bill has been introduced that would make it easier to prosecute cases of marijuana possession in automobiles when there is more than one occupant. The bill, AB 29 by Assemblyman Bruce Young of Cerritos, would pin responsibility on the vehicle's registered owner. The Assembly Criminal Justice Committee killed the measure.

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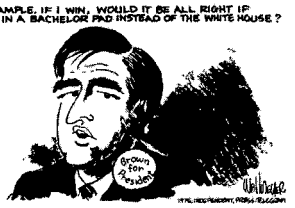

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ounce, for prices greater than gold."

Marijuana is not a precious metal but rather "an annual weed with no inherent value," says Brownell. He attributes its inflated price solely to "misguided efforts to prohibit its use and cultivation."

Keene says authorities find it difficult to police growers in his district because they lack manpower for displays of force necessary to raid pot farms which are sometimes under heavy guard and nearly always in remote areas.

Marijuana, legal or illegal, will continue to be grown, Keene says. "The point is, it isn't regulated and it is getting into the hands of kids. It's a business that isn't taxed; it isn't paying its fair share. It's increasingly involving people who are willing to take the risks associated with that sort of business, who are underworld types, and they're just beginning to take notice of it.

"And it's also sort of an invitation to violate the law. It encourages the notion that just because we have something on the books, and it's a felony, doesn't mean that we shouldn't violate it if your values happen to differ. So all of that is not confronted very much by people, and we feel that it ought to be. I feel that I ought to do something about it."

Keene, a former Assembly Health Committee chairman, says he has found sentiment favoring legalization in private meetings with Chamber of Commerce and law enforcement leaders in his district.

"The attitude of law enforcement may be different publicly and privately," he says, "but I've talked to some of the folks out there and they are very nervous about going into the back country with inadequate resources. A lot of the people out there are very well armed to protect their crops and the public resources have not gone into upgrading law enforcement facilities to the point where they feel comfortable about wandering into some of the outlying areas."

The general welfare

But the state's top law enforcement official, Attorney General George Deukmejian, says he will fight to maintain current laws. "I don't think we should be passing such a law to give approval to the unlimited use of a mind-altering drug," Deukmejian says. "We have had the controls on it for many years now, and though there are many people who apparently are violating the laws, I feel we should try to hold on to any controls, certainly as long as possible."

Deukmejian tried to block Willie Brown's bill in the Assembly Criminal Justice Committee, sending an aide armed with a 12-foot-tall marijuana plant. It was argued that a single plant could provide several years worth of marijuana for one person.

Deukmejian says weaker laws would promote expanded use of a drug that results in "people getting doped up and affecting their ability to study, drive and perform at peak efficiency. I think you could expect that if it were legal to possess it and use it, you would have advertising of it, commercializing of it, promoting and pushing of it, and much greater use resulting."

Senator Keene believes that such attitudes are unrealistic. "I think we're seeing the unraveling of the machinery that has suppressed use of marijuana," he says. "I think it's happening in a lot of different ways. Laws are changing. Public attitudes are changing. Habits are changing. It's a legitimate issue for public debate. I think what is not legitimate is pretending that it's not happening in an area like mine, where it is happening on a grand scale."

It is too early to predict whether an initiative campaign next year could succeed. But even if it should fail, the pressure for pro-pot bills would continue to grow rather than diminish. Much to the discomfort of the state's politicians, marijuana presents an issue that won't disappear and can't be ignored.

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MAXINE WATERS'

RAPID RISE TO ASSEMBLY HEAVYWEIGHT STATUS

By Beverly Becker

Congressman Augustus Hawkins, who represents South Central Los Angeles, is 71 years old and not expected to run for many more terms. Former Lieutenant Governor Mervyn Dymally has cast his eye on the Hawkins seat. On paper, Dymally should be able to take the seat for the asking. After all, he displayed his political skill by becoming the first black ever elected to partisan statewide office. He represented the Hawkins area for many years in the Legislature and thus has close ties to the constituency.

Yet, it would probably be difficult to find much money riding on a Dymally candidacy among political sophisticates. The reason: Dymally will likely be opposed in the Democratic primary by one of the most talented political operatives in the state, Assemblywoman Maxine Waters.

The 40-year-old Waters has been in the Assembly only three years, but she is already considered a heavyweight, especially when it comes to political strategy and organization. She was named by Speaker Leo McCarthy as the majority whip — hardly the most important post in the Legislature but one that gives Waters leadership status. She is the first black and the first woman ever named to the post.

Waters first was elected to the Assembly in a direct confrontation with the Dymally organization. At the time, Waters was a key member of the rival organization headed by Mayor Tom Bradley and City Councilman David Cunningham of Los Angeles.

Jumping into the fray

Then-Assemblyman Leon Ralph, a trusted Dymally protégé, had decided to retire from the Legislature and become a preacher (and later a lobbyist as well). In an effort to shut off any opposition from the rival camp, Ralph did not make his retirement plans known until a few minutes before the filing deadline. At that time, Ralph's aide, Johnny Collins, submitted a declaration of candidacy and appeared to have a clear road to the seat without opposition.

However, Secretary of State March Fong Eu invoked a provision of the elections code that allows nominations to be reopened when the incumbent fails to seek re-election. At that point, Waters jumped into the fray. In the Democratic primary, which is tantamount to election in the 48th Assembly District, she defeated Collins, 14,790 to 11,437. It was the first major defeat for the Dymally organization.

During her first term in the Assembly, Waters received an unusual assignment — membership on the Assembly Judiciary Committee, which is normally the private preserve of lawyers. Even though she did not have legal training, Waters was so impressive in her contributions to the committee that she was mentioned as a possible chairperson of the panel following the departure of the chairman, John Miller of Berkeley, who was appointed to the appeals court. (Tradition prevailed, and a lawyer, Jack Fenton, succeeded Miller.)

The judiciary assignment was unusual in another respect. Waters normally restricts her legislative interests to issues involving women, children, minorities, the poor and the elderly. She grew up in a St. Louis family of 13 children. Like many of today's black political leaders, she first entered community politics through the federal war on poverty in the mid-1960s. She became a Head Start supervisor for Watts, Wilmington and San Pedro. She soon realized that survival of her program was a political issue, so she started working on the campaigns of black candidates, starting with a state Senate race in 1975. Her candidate: Mervyn Dymally.

Not long after that campaign, says Waters, "some of us in the black com-

The author is a free-lance writer who recently moved from Sacramento to Riverside.

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munity wanted a different kind of leader than Merv." It was then that she started working with candidates other than those produced by Dymally's so-called farm club. As she became immersed in the election process, Waters began to recognize that she had "some distinct talents" for political organizing. She helped run campaigns for Wilson Riles, Alan Cranston, Tom Bradley and City Councilmen David Cunningham and Robert Farrell of Los Angeles.

Eventually, she started looking for an opportunity to run for office herself. The chance came when Ralph retired and March Fong Eu thwarted the Collins caper. Collins was backed by several other black legislators, including Senator Bill Greene, Congressman Julian Dixon (then Democratic caucus chairman in the Assembly) and Teresa Hughes — all from the Dymally farm club.

The heat of that campaign has led to the assumption that there is great rivalry between Waters and Hughes, both liberal black women from the same region of Los Angeles but from different political organizations. Both Hughes and Waters feel that the media has blown the rift out of proportion. Hughes explains: "I don't think I could function up here without Maxine. We cannot afford the luxury of petty bickering that many would like to see us fall prey to." Both women feel that unintentional racism has played a part in media perpetuation of the supposed ill feeling between the Dymally and Bradley camps. "Black women," says Hughes, "should not be expected to agree on all issues any more than white women." Waters adds that it isn't necessarily news when white Democrats disagree with each other.

During her first term, Waters authored, among others, measures to increase penalties for manufacture of angel dust (PCP), to protect homeowners from losing their homes because of unpaid improvement bonds, and to require health insurance companies covering mastectomies to also cover corrective surgery and prosthetic devices.

Waters has a reputation for concentrating a disproportionate amount of her effort on women's issues. And there are those who feel this could damage her political future. Assemblyman Walter Ingalls, who has served with her on the Judiciary Committee, feels that Waters has an excellent political future "if she is willing to leave the women's issues and move to more substantive issues." Adds Ingalls, who represents a middle-class white district in Riverside County: "She has a lot of moxie. If we don't always agree on issues, it's because I represent a district where people tend to wish government would leave them alone, while Maxine represents a district where people tend to look to government for help."

Early frustrations

Waters agrees with that difference and explains why the poor expect more from government: "I think the private sector has failed to produce equal economic opportunities for all. I'm interested in basic reforms that would hold business to its moral reponsibilities to the public." And she has experienced frustration trying to represent the poor. As a first-termer, she carried a bill (AB 3164) that would protect women receiving welfare for their children from certain investigatory questions concerning the identity of the fathers of their children. Waters considered the questions degrading and punitive. But the bill came to an early death in the Assembly Human Resources Committee.

"Sometimes I think I'd get more done working as a social activist than as a legislator," she remarks. "The legislative process is so cumbersome and piecemeal. I'd like to address the injustices in this country on a more comprehensive scale." That translates into a non-announcement that she will run for the Hawkins seat in Congress when it becomes vacant.

When is that apt to be? Waters doesn't know, especially because Dymally is likely to have the support of the veteran congressman. "A politician must always be ready to move if the opportunity presents itself," Waters observes. "You must do everything the best you can and continue to build organization and support." That's why Waters has become involved in Democratic politics on a wide scale.

She fought successfully for the adoption of a minority resolution at the National Women's Convention in Houston in December of 1977, and *Time* magazine pointed to her as an emerging leader. Last fall, President Carter named her to the National Advisory Committee for Women. When the President fired Bella Abzug as chairperson in January, Waters was among the committee members to resign. Waters claims that the cavalier manner in which Abzug was dismissed was tantamount to an insult to all women.

Last year, Waters married former professional football player Sidney Williams, who works for the city of Los Angeles in a neighborhood rehabilitation project. During legislative sessions, she leaves the Capitol after floor action is completed every Thursday and joins Williams in Los Angeles. A track and swimming star in high school, Waters now plays tennis for exercise and recreation.

But those who know her say that politics is both her profession and her hobby. In winning her Assembly seat, she proved she could take on the Dymally organization and win. The question now is whether she can win a head-to-head match with the organization's chief gladiator, Dymally himself.

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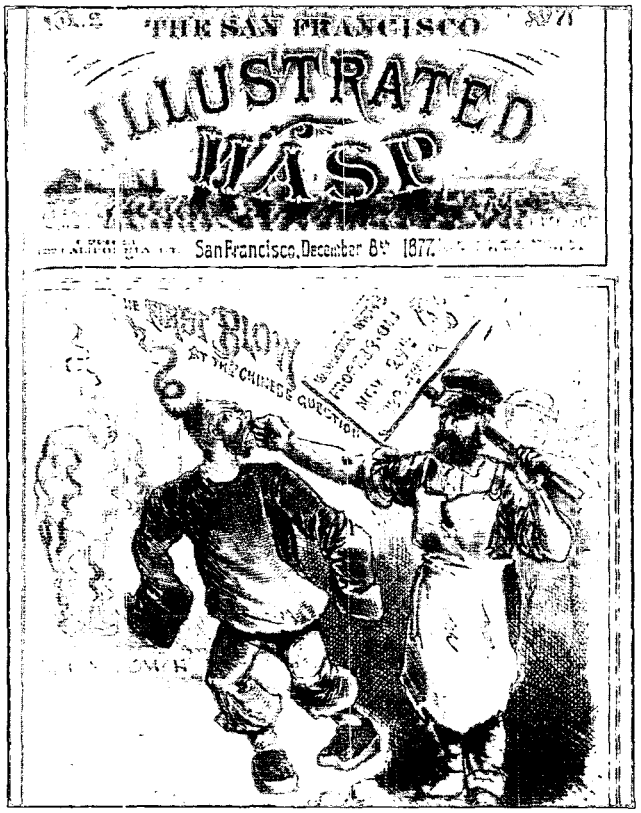
CALIFORNIA CONSTITUTION



These century-old cartoons, by Thomas Nast in *Harper's Weekly* and Edward Keller in the *Wasp*, depict the mood of California at the time the new constitution was written. (The illustrations are from *The Cartoon History of California Politics* published by the California Journal Press.)

It was in the constitutional convention which completed its work in 1879 that the constitution of California was drafted. In the following article, one of California's foremost constitutional authorities, Superior Judge Bruce W. Sumner of Orange County, chairman of the defunct Constitution Revision Commission, tells how the constitution came about, how it was dramatically changed into its present form and how it ought to be revised in the future.

By Bruce W. Sumner

"The Chinese must go!" This was the battle cry of Denis Kearney, leader of the Working Man's Party in California and one of the persons most responsible for the 1879 constitutional convention.

To understand what happened at that convention, it is important to consider the demographic profile and political climate of California in 1879. One-tenth of the population was Chinese; 20 percent of the population of San Francisco was native-born Irish, and nearly a quarter of the population of the state was living in the Bay Area.

The politics of that period were dramatically different from today's, but the voters' disenchantment was similar. The 1870s have been described as the "terrible '70s." California was in a state of economic turmoil during this decade. Construction of the railroad had attracted thousands of Chinese "coolies" to the state and dumped them on the labor market. Goods from the East were now traveling the rails westward, hurting local merchants. Real estate values declined. Profits from mining were disappointing, and a general economic slump in the nation was magnified in California.

All this gave rise to the phenomenal growth of the Working Man's Party, led by Kearney. His party was really an outgrowth of the Granger Movement, founded in Washington, D.C. in 1867.

The California Legislature of 1878 called for a constitutional convention. The 152 delegates were elected from each Assembly and Senate district, plus 32 at large. When the

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ballots were counted, only 11 Republicans and 10 Democrats were elected. But 51 members of the Working Man's Party and 72 who ran under a "non-partisan" label were chosen. There were only two native Californians and no delegates with Spanish surnames or African or Indian heritages in the 1879 delegation. (By contrast, at the first state constitutional convention in 1849, seven native Californians were elected. Eight other delegates had Spanish surnames, and several of them were unable to speak English. At least one delegate, Antonio Pico, was one-eighth Indian and one-eighth black.)

The second constitutional convention was called into session at noon on Saturday, September 28th, 1878, and completed its work on March 3rd, 1879. The document adopted was a reflection of the delegates' extreme distrust of the state Legislature. It dealt with the problems of the day in

detail. For example, one article was entirely devoted to the exclusion of "natives of China" from participation as citizens. Not only were they denied the right to vote, but they were denied the right to work for any corporation organized under California law or for any governmental agency or subdivision.

Another article dealing with corporations provided that all stockholders of California corporations would be liable pro-rata for the debts of the corporation. Needless to say, few corporations were formed in California while this provision remained in effect.

The reaction to the convention's work was predictable: All the major newspapers except the *San Francisco Chronicle* opposed it. Amid dire predictions of what would happen if the measure was adopted, the people approved the work of the convention at the polls, and it became the law of California.

The constitution in 1979 bears almost no resemblance to that of 1879. The changes came from two main sources: from more than 344 amendments and from court decisions striking down provisions that conflicted with the federal Constitution and Bill of Rights.Some amendments also were striken. For example, the courts declared a constitutional provision attempting to keep the "Okies" out of California in the '30s to be a violation of federal law.

Some amendments added in 1911 dramatically changed the California political process. They were the inspirations of then-Governor Hiram Johnson, who borrowed several of them from a progressive city charter for Los Angeles that had been adopted in 1903. That charter contained provisions for the initiative and referendum and for recall of elected officials. This was the first recall measure adopted anywhere in the world. Enactment of the initiative and referendum marked the first time that these alternatives were available in any city in the United States. With the support of a progressive group called the Lincoln-Roosevelt League and its leader, Dr. John Randall Haynes, these proposals received statewide interest and support. Governor Johnson embraced the Lincoln-Roosevelt proposals and 23 of them were submitted to the voters in 1911. Perhaps the most important single proposal was the one giving women the right to vote. Women's suffrage had been widely discussed at the 1879 convention but not adopted.

Obsolete and unclear

By the '60s the California constitution was the fourth longest in the world. Many of its provisions were void because of court decisions rendering them ineffective. Others were obsolete because the passage of time diminished their constitutional importance — for example, the constitutional prohibition against dueling. Other provisions were so helplessly ambiguous or unclear that they became a constant source of litigation. Whenever any significant change occurred in the makeup of the appellate courts, lawyers would rush back to the courtroom to test the more ambiguous sections of the constitution.

California legislators decided to take a new approach in 1962. They asked voters if they wanted a new constitution, either on a piecemeal basis or as an entire revision package. The answer was an overwhelming, two-to-one yes. By this support, the people made the subsequent work of the Constitution Revision Commission possible.

The commission was unique in that all of its members were appointed by the Legislature, acting through the Joint Committee on Legislative Organization. The wisdom of this approach quickly became apparent. When proposals went before the Legislature, commission members could argue that their recommendations deserved careful study "because we are only doing what you asked us to do."

The Revision Commission first met in February 1964, passed its own rules of procedure and elected its first officers. The Legislature did not dictate what articles were to be considered first or how the commission's work was to be presented. With this independence, the commission organized its study on an article-by-article basis and met monthly for two- or three-day sessions. The commission chairman determined which articles should be considered and named committees of the commission to do in-depth studies. The committees reported their recommendations to the full commission after background studies were prepared by commission staff or special consultants. After studying an article in detail, the commission adopted its recommendations for revision of both substance and language. Language was of particular importance to the commission. Wording was suggested by a drafting committee that met after the commission reached decisions on change of substance. The new wording was then submitted to the commission for approval.

In 1966 the first commission proposals were submitted to the Legislature and adopted by the voters as ballot Proposition 1A. This was a revision of the legislative, executive and judicial articles. In 1968 a second proposal was presented to the people but narrowly defeated. In 1970, four more proposals were submitted to the people and all were adopted. In 1972 measures were adopted in both the June and November elections. Some of the 1972 recommendations included matters rejected earlier by voters when they were part of more inclusive packages.

In 1976, the final work product of the Revision Commission was adopted. This amounted to a renumbering and reorganization of previously adopted measures. The net result is a constitution that has been shortened by about 40,000 words. Revisions, in whole or in part, have affected

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nearly every article. Other ballot measures have added to the length and substance of the constitution, but the document is more workable now than it has been for decades.

A populist mood

What of the future? What more can be accomplished, in light of existing attitudes and political realities? What should be accomplished for the benefit of the people of California?

The realities are that California is in the midst of a populist movement not unlike the disenchantment and cynicism that gripped the state 100 years ago. The issues, of course, are different. There is no longer a Chinese question. There still is, however, great discontent with what is viewed as the unresponsiveness of the state Legislature and the seemingly omnipotent power of corporations. Perhaps the oil companies have taken the place of railroads as targets for popular distrust.

The effect of this general attitude is to make it difficult to remove essentially statutory material from the constitution, because people simply do not trust the Legislature. In addition, there is a feeling that the California Supreme Court at the present time is dominated by a populist majority. Voters feel that the justices find the law to be what they think the law ought to be, if there is any room for interpretation. This makes the wording of the constitution of utmost importance.

The state constitution has three major functions: to set up a framework of government; to mandate the Legislature or other governmental branches to perform certain functions; and to place certain prohibitions on governmental action.

The constitution should be made simpler than it now is. We should continue to strive for the goal of making it understandable to an eighth grade student. A review should be required of all proposed ballot measures, not to restrict them from being presented to the voters but to make the provisions intelligible. People ought to be able to understand what it is they are voting for. The Legislature is as guilty of obscure language as the advocates of various initiative measures. Many legislatively proposed measures are hopelessly unintelligible.

There is no place in today's constitution or statutes for obscure legalese. The "saids," the "suches," the "heretofores," and "hereins," the future tense when not necessary — all are archaic. While often inserted under the guise of clarification, they result in the opposite effect. Short sentences should be applauded and common sense interpretations of clear wording encouraged. Court decisions and legal commentators make this goal seemingly unattainable, but it is worth the effort.

For future review

California also should review:

- ***Its constitutional offices,*** deciding whether more or less are required. Some experts feel that only policy-making positions should be elective. Under such a plan, members of the State Board of Education who make policy would be elected, but the superintendent of public instruction would be appointed by the board, much as a city manager is appointed by a city council
- ***The number of constituents*** represented by members of the Legislature, with an eye toward increasing or decreasing the number of legislators.
- ***The operation of the executive branch,*** with consideration given to electing the governor and lieutenant governor on a single ticket, much as we do at the federal level.
- ***The method of selecting and appointing judges.*** Consideration should be given to the length of their terms and whether the direct election system or electoral review should be used for both trial and appellate court judges.

If there is anything that has made the American democratic experience successful, it has been the ability of government to change with the needs of the time. Americans are fond of referring to the past and the phenomenal accomplishments of their "founding fathers." But the real genius of the nation's founders is reflected in a system that can change with the times. To claim that change is either un-American or in some way subversive of the original intent of the founders is to misunderstand what our republic is all about.

In many areas we are caught up in procedure — so ensnarled in the way we do things that we lose sight of what it is we are trying to do. Most Californians would agree that they want an honest, simple, efficient state government to meet the needs of its citizens in appropriate areas. They also would agree that the structure to accomplish this should be designed to allow the good people who come into the system an opportunity to reach their highest potential.

In other words, the state constitution should not inhibit the attainment of these common goals. It should instead be one of the major tools for accomplishing such goals. If this is true, constitution revision is a continuing process.

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DANCING THE BEER-BOTTLE POLKA

The curious tale of the anti-litter tax

By Lynda Breitsprecher

"I think we all should be somewhat embarrassed by this," commented Assembly Speaker Leo McCarthy. That was putting it mildly. McCarthy was referring to the Legislature's classic confusion this session over an anti-litter law passed in 1977.

Flustered politicians — overwhelmed by angry business and manufacturing interests — rushed to repeal in February the new $18 million litter tax they had approved almost unanimously about 16 months before.

While the apparent focus of controversy is the Recycling and Resource Recovery Act of 1977, the real battle is much bigger. It involves the running feud between environmental groups and the state's beverage industry; the Legislature's flip-flop behavior is only one small chapter.

The underlying issue is whether California will join seven other states that have passed mandatory deposit laws. Environmentalists want a national bottle bill, and they believe that if California joins the movement, the national effort will succeed because the state represents such a high proportion of beverage industry sales. The Carter Administration favors a national bill, and two major breweries — Coors and Falstaff — now say they prefer a national law to state-by state implementation.

But the packaging industry is strongly opposed, and it uses well-financed lobbying efforts to defeat deposit bills wherever they are proposed. The industry claims severe economic losses and job layoffs would result if the nation shifts from throwaway containers to returnable bottles and cans. Allied with the packagers are most retailers, the beverage bottlers and unions like the United Steelworkers whose members produce beverage cans.

These forces combined two years ago to sidetrack a 1977 version of a bottle bill proposed by Democratic Senator Omer Rains of Ventura. And that is how the Recycling and Resource Recovery Act was born. Two weeks after Rains' bottle bill was approved by the Senate Committee on Natural Resources and Wildlife, Republican Senator John Nejedly of Walnut Creek was approached by beer-industry lobbyists Paul DeNio and Daniel Creedon and asked to introduce "comprehensive solid waste management legislation." It was common knowledge at the Capitol that Nejedly, chairman of the resources committee, had abandoned his previous support of mandatory deposit legislation and was interested in the "comprehensive" approach to solid waste.

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Senator Nejedly claimed that his bill would do something about all of the solid waste problem, not just litter: everything from aluminum cans to disposable diapers to last week's green beans. It created an $18 million annual fund to be administered by the state Solid Waste Management Board. The money was to come through assessments on most holders of sellers' permits and on disposal-site operators. As Nejedly explained, "The manufacturers, wholesalers and retailers who generate sources of litter and the disposal-site operators who bury refuse are paying the assessments that will be spent to solve the problem." Nejedly didn't say that a lot of businesses and individuals who would be assessed have nothing to do with generating solid waste.

The Solid Waste Management Board was to make grants to local governments and private groups for programs such as litter education, recycling centers, research and litter pickup. As first introduced, the bill's costs were to be paid from the state general fund. But Governor Brown objected to any new demands on general-fund dollars, so the bill was amended to impose a tax on large retailers, bottlers and others with a direct role in the can and bottle business.

But industry lobbyists didn't like that funding approach. They got the tax changed by the Assembly Ways and Means Committee into a general levy on all businesses. While a sliding scale was adopted, small businesses were bound to pay proportionately more than large ones because of a ceiling on the tax. (Taxes ranged from $10 to $2,000.)

The bill, with industry and labor support, aroused little debate and whipped through the Assembly and Senate on near-unanimous votes. Governor Brown signed the bill in spite of Senator Rains' urging that he veto it. "SB 650 is a very sophisticated attempt to derail the impetus for a deposit system," Rains wrote the Governor. He pointed out that, as originally written, the bill would have denied anti-litter grants to any city or county imposing its own mandatory deposit laws. (That provision was removed over industry protests.)

Then the lobbyists led the praise of their own handiwork. John Gallagher, chairman of the Industry Environmental Council, called SB 650 "the fairest, most comprehensive approach to the situation I've seen yet, because it affects equitably every manufacturer, wholesaler and retailer who produces or sells products which end up in the litter stream."

But thousands of those manufacturers, wholesalers and retailers didn't agree. When they received their assessment notices last January, they swamped the Legislature, the

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Board of Equalization (which was reponsible for collecting the assessments) and the Solid Waste Management Board with their complaints.

And the environmentalists were unhappy, too. The Sierra Club, Friends of the Earth and the Planning and Conservation League — the state's three largest citizen-based environmental groups — kept their hands off SB 650. Their lobbyists called the solid waste tax "infamous" and "a nuisance to thousands of California business people." They also issued a statement saying, "With the possible exception of recycling centers and some of the resource recovery projects, (the programs funded by SB 650) are a superficial attempt at dealing with the problems of litter and waste." They feel the litter-abatement portion of SB 650 is a sham; they would prefer a separate recycling program and, most important, mandatory deposit legislation.

Second thoughts

Legislators' intentions may have been good, but had they known the fate of SB 650, they would not have approved it so quickly and overwhelmingly.

The first litter grants under SB 650 weren't disbursed until a year after the bill became operative. Under the formula for guaranteed litter grants, some cities received as little as $17 to help their litter-control programs. Each county was guaranteed at least $5,000 for "litter control" and encouraged by the Solid Waste Management Board to use that money to enforce litter laws, with fines collected going directly into county coffers. There also was money made available on a competitive basis for local governments that wanted to get more involved in litter abatement and education.

So far, five resource-recovery research projects have been funded. A $350,000 contract also has been awarded to a San Francisco public relations firm, Hoeffer-Amidei — which handles a large account for the Shasta Beverage Company.

Only half a dozen recycling projects have been funded. In late 1978 the guidelines and criteria for applying for recycling grants were finally issued by the Solid Waste Management Board. About 100 applicants met the December 31st filing date, to be eligible for the first round of grants.

But in January, SB 650 met its near-demise. The Board of Equalization sent out the first solid-waste assessment bills. Until then, SB 650 programs and administrative costs had been paid by a loan from the general fund. The loan was to be paid back with money from the assessments, due by Feburary 28th.

The Board of Equalization sent out a first notice of the assessment soon after SB 650 was enacted, and 280,000 permit holders had already paid their 1978 tax when the Board of Equalization mailed the bills in January. The time between the two notices included passage of Proposition 13. Also, a lot of new seller-permit holders were unaware that they were liable for the assessment.

Confusion has abounded in the administration of SB 650. The legislative analyst's office said the Solid Waste Management Board has made "insignificant progress" in implementing SB 650 and "is seriously lacking in administrative strength." It urged abolition of the board and assignment of the state's solid waste management and resource recovery responsibilities to a department and an advisory commission within the Resources Agency. The board and Senator Nejedly termed the suggestion premature and ill-advised.

The Board of Equalization feels that the anti-litter tax was "unnecessary as an assessment against sales tax permittees and as a state special fund," and that "the program should be funded from the state general fund with normal budget reviews." The board also believes that "repeal of the litter (solid waste) assessment and the separate taxpayer reporting requirements is an opportunity to further reduce the oppressiveness of ever-increasing taxes."

Some Board of Equalization critics have accused board members of sitting on their hands because they didn't want to implement the anti-litter law. Others say that the board intentionally waited until just before assessments were due to bill permit holders, hoping that the public outcry would be enough to get SB 650 repealed. Board member William Bennett denied the charge. Nevertheless, protests mounted.

At first Nejedly defended his program and blamed the furor on bad administration. But after a week of protests, he backed down, offered a bill repealing the tax and proposed a second one creating a new financing setup. An embarrassed Legislature waived the rules and adopted, almost unanimously, the repeal plan. Ironically, Rains and the environmentalists opposed the tax repeal. They wanted to kill the whole program, and they hoped that the unpopular anti-litter tax would generate support for their alternative, Rains' 1979 bottle deposit bill (SB 4). That bill has passed the Senate resources committee despite heavy industry-labor lobbying, and is now pending on the Senate floor. A heated battle is expected, probably next January.

Under Nejedly's repeal plan, the Legislature has given itself until July 1st to come up with a new method of financing the litter program. If it doesn't enact a new plan by then, the tax would be automatically reinstated, with a new deadline of October 1st.

But if the tax is reinstated, all retail businesses would be exempt. So would manufacturers and wholesalers of items not involved in litter, and those who employ fewer than three persons. Revenues from such a plan would be cut from $18 million to about $12 million. About 400,000 of the more than 600,000 businesses would be exempt under the new plan.

Now the Board of Equalization must make refunds to those who are no longer obligated to pay the tax. But some assessments have already been deposited in the state treasury, and there is no legal way for the board to get that money back. There are other problems: Fast-food chains, whose packaging is strewn all over California, probably aren't liable for any assessment. Board of Equalization staff members say the repeal plan is unclear about who are wholesalers and who are retailers. They're not sure who really is supposed to be taxed.

But Equalization personnel may not have to worry much longer. Under the tax-repeal bill, funds for the program will most likely be administered now by the Employment Development Department. The bill also got a new name — the Solid Waste Management Act of 1979 — and tinkered somewhat with funding allocations.

Bill of goods?

According to those who have tried to implement SB 650, that's not enough. One Equalization staff member says simply, "SB 650 is the worst abortion ever instituted by the Legislature. It's caused the worst mess in my 20 years at the board."

Staunch bottle-bill supporters, particularly an organization called Californians Against Waste, maintain that the Legislature and the public have been sold a bill of goods by the industry.

They say that Colorado and Kentucky have repealed bills similar to SB 650, finding them unworkable and ineffective. The state of Washington, which still has a "comprehensive" solid waste management program, will have a bottle bill initiative on the November ballot.

Bottle bill advocates claim that the real problem — reducing solid wastes — hasn't even been addressed by SB 650. Senator Rains puts it this way: "It's like mopping up the floor while the faucet is still running."

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THE GATE FOR GARZA

Debunking the myth of Chicano conservatism

ILLUSTRATION BY GARY WILLIAMSON

By PHILIP J. TROUNSTINE

The 1978 elections — far from proving that Chicano voters are not loyal to liberal or Democratic issues and candidates — in fact showed just the opposite. Hispanic voters in California once again demonstrated that they are firmly to the left of the political mainstream.

In San Jose, where 82,267 Hispanics form 15 percent of the population, last year's election provided a good example of how solidly liberal the Chicano vote remains.

When San Jose City Councilman Alfredo Garza decided to challenge Mayor Janet Gray Hayes for the city's top elective office, the conventional wisdom around town was that Garza had at least one thing going for him — the Chicano vote. The June primary results appeared to lend credence to that view. After a campaign during which the differences between Garza and Hayes seemed more a matter of form than substance, Garza forced the mayor into a runoff by robbing her of a majority and beating her in a few neighborhoods. Those neighborhoods included the predominantly Hispanic east side, where he won 50 percent compared to 42 percent for Hayes.

Hayes campaigners were so sure that Garza had the Chicano vote tied up that they simply made no effort to capture east-side votes in November. Instead they concentrated on the more populous Anglo precincts.

"Parts of the east side I just crossed off the list," Barbara Carey, the mayor's precinct coordinator, said a few days before the general election. "We could go in there and stand on our heads and they'd still vote for Garza."

But they didn't — at least not to the extent that Garza and Hayes people had expected — and when the dust settled, both sides were left scratching their heads in amazement.

Hayes, the *San Jose Mercury News* found in a computerized analysis of the vote, won 71 percent of the citywide vote. She also took 52 percent in selected precincts where at least 52 percent of the population was Hispanic, according to the 1975 special census. Some of the precincts included in the Chicano sample had populations that were 72 percent Hispanic in 1975. (San Jose Chicanos have long argued that the census seriously undercounted their numbers, and local officials believe the concentration of Hispanics has increased in the past four years.)

The professional campaign managers had assumed that Chicanos would vote for Garza no matter what stands he took on major community issues. They were wrong. Even in precincts where the 1975 median household income was $6,300 or less, Hayes took 64 percent.

Between June and November, Garza joined the council's most conservative members in a block known locally as the "Fearsome Foursome." The faction passed a pro-growth roads program, ousted controlled-growth City Manager Ted Tedesco and seemed bent on dismantling popular restrictions on the city's rate of expansion. Garza became identified as the big business, development-oriented candidate, while Hayes successfully portrayed herself as the anti-sprawl liberal dedicated to upgrading services in existing neighborhoods.

The Brown wave

Hispanic voters, it turned out, were considerably more sophisticated than the political consultants had assumed. And they delivered the majority of their votes to the candidate on the left, choosing a white liberal over a Chicano conservative. The San Jose vote, coupled with others, contradicts the theory that the Chicano "sleeping giant" is even more conservative than the political mainstream.

In San Jose, the *Mercury News* found that 4,351 voters (a 56 percent turnout) in selected precincts that are overwhelmingly Hispanic delivered 81 percent for Governor Jerry Brown, 71 percent for Lieutenant Governor Mervyn Dymally, 70 percent for Yvonne Burke in the attorney general's race and 72 percent for Rose Bird's retention as chief justice. Even on Proposition 7 (the death penalty initiative), which took 72 percent throughout the state, San Jose Chicanos gave the measure only 58 percent, compared to 71 percent from whites and 69 percent citywide.

In the 56th Assembly District of East Los Angeles which, according to former Assemblyman Ray Gonzales, has "the largest number of Chicano voters in the state," the results were much the same. There, where 32,258 (63 percent) of the 51,571 registered voters turned out, Brown took 79 per-

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cent, Dymally 64 percent, Burke 59 percent and Bird 68 percent.

The statewide Public Response Associates election-day poll of 4,020 voters — conducted for McClatchy newspapers and television station KGO — found similar voting patterns among Chicanos. According to PRA, Chicanos gave Brown 81 percent, Dymally 68 percent, Burke 62 percent and Bird 66 percent.

Only on Proposition 6, the Briggs anti-homosexual initiative, do the San Jose and Los Angeles votes appear at odds with the PRA poll. The *Mercury News* found that Chicanos cast 60 percent of their votes against the measure and 61 percent of the voters in the 56th District opposed it. But the PRA poll found Chicanos casting only 53 percent of their votes against the proposition.

This one figure has been interpreted as indicating an underlying conservatism and unpredictability among Chicano voters. Yet actual vote counts in East San Jose and East Los Angeles show Chicanos voted at least as firmly against the measure as whites did.

PRA's Hugh Schwartz believes the finding is significant, considered alongside votes for Dymally and Burke that are weaker than the vote for Brown. But Schwartz concedes a five- to six-point range of error in his poll, so that the statewide Chicano vote may actually have been 59 percent against Proposition 6. That would correlate closely with the vote in San Jose and Los Angeles.

Schwartz also admits the possibility that some of the 350 or 400 Chicanos interviewed as they left the polls might have lied to pollsters because of cultural bias against homosexuality. Perhaps rural Chicanos, like all rural voters, were more heavily in favor of Proposition 6 than their urban counterparts.

Less predictable

"It's a misstatement to say that Mexican-Americans are not liberal." Schwartz said recently after going back over his poll data. "What you can say is that they tend to be less loyal Democrats than blacks, less predictable and slightly less liberal."

And what about the Dymally and Burke votes? Clearly, Chicanos did not support them as strongly as they did Brown. But the more telling comparison is to examine Brown, Dymally and Burke votes by race.

In San Jose, whites elected Brown (58 percent), Mike Curb (54 percent), George Deukmejian (50 percent) and kept Bird (53 percent). According to PRA, whites statewide chose Brown (52 percent), Curb (57 percent), Deukmejian (58 percent) and rejected Bird (52 percent). In other words, San Jose Chicanos surpassed white supporters of Brown by 23 points, of Dymally by 29 points, of Burke by 24 points and of Bird by 19 points. Statewide, compared to white voters, Chicanos gave Brown 29 more percentage points of support; Dymally, 29; Burke, 22; and Bird, 18.

It wasn't primarily Chicanos who deserted Burke; it was whites. And nearly one-third (30 percent) of all Democrats picked the Republican Deukmejian, while only 15 percent of the Republicans crossed over for Burke, PRA found.

What the 1978 elections showed was that Chicanos consistently pick the candidate or position on the left. What the San Jose vote suggests is that they will not blindly support a Chicano candidate if he or she is perceived as a conservative.

As more and more Chicanos register and vote in California elections, the importance of this characteristic will grow. It will not be enough for a candidate to be a Chicano. He or she will also have to be perceived as a liberal to capture Hispanic support.

(For a different view of Chicano voting patterns, see "Myth of the sleeping giant," *CJ*, February 1979.)

California CAPSULES

Curb's powers challenged by Brown before Supreme Court

How much gubernatorial power can Lieutenant Governor Mike Curb exercise while Jerry Brown is out of state? That question was placed before the state Supreme Court and the obscure Commission on the Governorship after Curb employed the full powers of the governor during one of Brown's absences from the state. At issue is the meaning of the state constitution stating that the lieutenant governor shall act as governor during "absence from the state or other temporary disability of the Governor." Curb claims he is, in fact, governor whenever Brown is out of state. Governor Brown's lawyers contend that Curb cannot act as governor unless there is a finding of disability. Similar cases in other states indicate that the weight of legal authority rests on Brown's side.

During one of Brown's brief absences last month, Curb signed an executive order reducing anti-smog standards in the production of gasoline. Brown said the order was invalid, and the state Air Resources Board issued its own new regulations. During his residence in state, Brown took a series of significant actions. Among them: He signed an executive order instituting the odd-even gasoline sales system at county option. He refused to call an August special-election on ballot measures designed to restrict government spending and to halt busing of students in Los Angeles. He called on the University of California to halt management of nuclear-weapons laboratories for the federal government. (The UC Regents delayed action on Brown's motion until July.)

FPPC reports record spending in 1978 campaigns

The Fair Political Practices Commission issued a two-inch-thick statistical analysis reporting that California campaigns cost a record $58.2 million last year. Among the highlights: The R. J. Reynolds tobacco company spent more money trying to defeat the anti-smoking initiative than Evelle Younger spent on his gubernatorial campaign. Five candidates for the state Senate spent more than $200,000 each and one, Senator John Schmitz, topped $300,000.

Thurman, Maddy Senate runoff set for June 19th

Democratic Assemblyman John Thurman of Modesto came within 1 percentage point of winning the state Senate seat vacated by Appellate Justice George N. Zenovich at a special election May 22nd. Thurman will face Republican Ken Maddy, a former assemblyman from Fresno, in a June 19th runoff election. Three other candidates polled enough votes to prevent Thurman from winning the seat in May. The results: Thurman, 34,321 (49%); Maddy, 32,241 (46%); Supervisor Joash Paul of Stanislaus County, 2,259 (3%); Ed York of Fresno, 734 (1%); Bernard Gardner of Los Banos, 428 (1%). York is a Republican; Paul and Gardner are Democrats. Early polls gave Maddy a large lead, but Thurman came with a rush by attacking his opponent for being soft on crime.

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Shooting the lame duck

Assemblyman Paul Priolo learned the hard way that there is no such thing as a lame duck in the politics of legislative leadership posts — only dead ducks. Priolo, who started this year as Republican floor leader, had hoped to hold his important post while trying to amass a campaign kitty for a run at the United States Senate. As floor leader, he would get a great deal of publicity and have the use of a large staff.

So long as Priolo was merely considering the Senate campaign, he had only to contend with the grumbling of some Republicans, mostly newcomers, who felt he wasn't militant enough in dealing with Democratic Speaker Leo McCarthy on some issues. But once Priolo let it be known that he intended to leave the Assembly to seek the higher office, he created a leadership vacuum that others were bound to fill.

As it turned out, the contest for Priolo's job was between Priolo's caucus chairman, Bruce Nestande, and a sophomore, Carol Hallett. Most of the newcomers supported Hallett, and Priolo was told to resign or be fired. Priolo resigned, and Hallett became the Republican leader only 30 months after arriving in Sacramento. (Nestande lost the caucus chairmanship to sophomore Charles Imbrecht.)

Hallett is hardly a product of the women's movement. She calls herself Mrs. and refused to join the women's caucus upon arrival in the Assembly. But she knows the political game well from her years of service as an aide to former state Senator Donald Grunsky and the late William Ketchum, who was an assemblyman and a congressman. Should the Republicans win a majority of the seats in the Assembly next year, Hallett would be in line to become the state's first woman speaker. Already, she holds the highest office ever attained by a female legislator.

The Republicans' "Bolshevik revolution," as Democratic Speaker pro Tempore John Knox called it, overshadowed work on most issues during the month of May. The Legislature headed into the crucial month of June with major fiscal issues still unresolved. The most important one was whether there would be a permanent financing plan for local government. The consensus was that there was still much work to be done even though there were no sharp ideological differences separating the parties. Most lawmakers expected that a stopgap bailout bill similar to the one adopted this year would be packaged with the state budget. Key issues to be decided as part of the budget: how much of a pay increase should be given to state employees, how much should be granted to welfare recipients, and whether state funding should be available to provide abortions for those on the Medi-Cal program.

Senate (25D, 14R)	SB 91	SB 858	SB 234	SB 186	SB 364	SB 1209	SJR 10	SB 27	SB 217	SB 39
Alquist (D)	Y	Y	Y	*	Y	Y	N	*	Y	*
Ayala (D)	Y	Y	Y	Y	Y	N	Y	*	Y	Y
Beverly (R)	Y	Y	Y	Y	Y	Y	Y	Y	Y	*
Briggs (R)	Y	N	Y	Y	N	Y	Y	N	Y	Y
Campbell (R)	Y	*	Y	Y	*	Y	*	N	Y	Y
Carpenter (D)	Y	Y	*	Y	Y	*	*	*	Y	
Craven (R)	*	N	*	*	Y	Y	*	N	*	Y
Cusanovich (R)	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Dills (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Foran (D)	*	Y	Y	Y	Y	Y	N	Y	N	N
Garamendi (D)	Y	Y	Y	Y	N	*	*	Y	Y	N
Garcia, A. (D)	*	Y	Y	*	Y	Y	Y	*	*	*
Garcia, M. (R)	Y	Y	N	Y	Y	Y	N	N	Y	Y
Greene (D)	Y	Y	*	*	Y	N	*	Y	*	*
Holmdahl (D)	N	*	N	N	Y	Y	Y	Y	Y	Y
Johnson (R)	Y	N	Y	Y	Y	Y	*	Y	Y	Y
Keene (D)	Y	Y	Y	Y	Y	Y	N	Y	N	N
Marks (R)	Y	Y	Y	Y	Y	N	Y	N	*	
Mills (D)	*	Y	Y	Y	Y	Y	N	*		
Montoya (D)	Y	*	*	*	*	Y	*	*	*	*
Nejedly (R)	*	*	*	*	*	*	*	*	*	*
Nielsen (R)	Y	N	Y	Y	N	Y	N	Y	Y	Y
Nimmo (R)	Y	*	N	*	Y	Y	Y	N	Y	Y
Petris (D)	Y	Y	Y	Y	Y	N	N	Y	N	Y
Presley (D)	Y	*	Y	Y	Y	N	Y	Y	N	Y
Rains (D)	Y	*	Y	Y	Y	N	N	N	N	Y
Richardson (R)	N	N	N	*	*	*	*	N	Y	Y
Robbins (D)	Y	*	Y	Y	*	Y	*	Y	*	Y
Roberti (D)	Y	Y	Y	Y	*	N	*	*	N	*
Rodda (D)	Y	Y	Y	Y	Y	Y	N	Y	N	Y
Russell (R)	Y	N	N	Y	Y	Y	N	N	Y	Y
Schmitz (R)	N	N	N	*	Y	Y	Y	N	*	Y
Sieroty (D)	Y	Y	Y	Y	*	N	*	Y	N	N
Smith (D)	Y	Y	Y	Y	Y	N	Y	N	N	N
Speraw (R)	*	N	Y	Y	Y	Y	Y	N	Y	Y
Stiern (D)	Y	*	Y	Y	N	Y	Y	N	Y	Y
Vuich (D)	Y	N	Y	Y	Y	Y	Y	N	Y	Y
Watson (D)	Y	Y	*	*	*	N	*	*	N	Y
Wilson (D)	Y	Y	Y	N	Y	Y	N	Y	Y	Y

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through mid-May. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y - Yes **N - No**
*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

Senate

EMPLOYMENT

SB 91 (Alquist) — Appropriates $819 million for pay increases to state employees averaging 7.5 percent over two years. Passed 30 - 3.

SB 858 (Smith) — Grants additional collective bargaining rights to local-government employees. Passed 21 - 9.

PUBLIC FINANCE

SB 234 (Dills) — Provides an additional $933 million for the public schools. Passed 27 - 6.

SB 186 (Rodda) — Appropriates almost $5 billion in second-year Propositon 13 bailout funds to local government. Passed 27 - 3.

SB 364 (Senate Rules Committee) — Would give legislators a 10 percent pay increase, effective December 1st, 1980. Passed 27 - 4.

TRANSPORTATION

SB 1209 (Foran) — Requires the Air Resources Board to adopt federal volatility standards for gasoline to increase gas production. Passed 27 - 9.

SJR 10 (Briggs) — Asks Congress to allow states to exceed the 55-mile-per-hour speed limit. Failed 14 - 13.

MISCELLANEOUS

SB 27 (Nejedly) — Increases license fee for concealed weapon. Failed 18 - 12.

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SB 217 (Robbins) — Calls a special election on November 6th for consideration of propositions to limit school busing and government spending. Passed 22-11.

SB 39 (Cusanovich) — Changes coastal zone boundary in the Santa Monica Mountains. Passed 24-5.

Assembly

ENVIRONMENT

AB 13 (Papan) — Changes boundary of coastal zone in the Santa Monica Mountains. Passed 52-21.

SB 82 (Garamendi) — Revises composition and powers of the Tahoe Regional Planning Agency. Passed 46-25.

HOUSING

SB 22 (Foran) — Adopts a statewide housing plan. Passed 62-7.

SB 30 (Petris) — Allows the use of alternative construction materials in the rehabilitation of housing structures and encourages rehabilitation rather than demolition of structures. Passed 60-13.

MISCELLANEOUS

SB 182 (Dills) — Requires cities and counties rather than school districts to pay the salaries of school-crossing guards. Passed 54-19.

AB 468 (Robinson) — Authorizes the submission of state labor-management disputes to fact-finding panels. Passed 64-10.

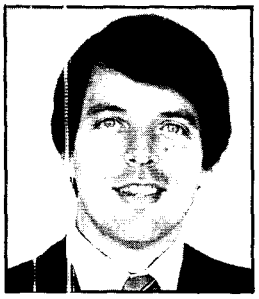
AB 676 (Alatorre) — Requires that 25 percent of county juvenile-justice funds be allocated to community organizations. Failed 32-39.

AB222 (McCarthy) — Prohibits candidates from making personal use of surplus campaign funds. Passed 65-7.

Assembly (50D, 30R)	AB 13	SB 82	SB 22	SB 30	SB 182	AB 468	AB 676	AB 222
Agnos (D)	N	Y	Y	Y	Y	Y	Y	Y
Alatorre (D)	*	*	*	*	Y	*	Y	*
Bane (D)	Y	Y	Y	Y	Y	Y	Y	Y
Bannai (R)	Y	N	Y	Y	N	Y	N	Y
Bates (D)	N	Y	Y	Y	*	Y	Y	Y
Bergeson (R)	*	Y	*	Y	Y	Y	N	Y
Berman (D)	N	*	Y	Y	Y	Y	Y	Y
Boatwright (D)	*	Y	Y	*	Y	Y	N	Y
Bosco (D)	N	Y	Y	Y	N	Y	Y	Y
Brown, D. (R)	Y	N	N	N	N	N	Y	Y
Brown, W. (D)	N	*	*	Y	Y	*	Y	Y
Calvo (D)	N	Y	Y	Y	Y	*	Y	Y
Chacon (D)	Y	*	Y	Y	Y	Y	Y	Y
Chappie (R)	Y	N	Y	Y	N	Y	N	Y
Cline (R)	Y	N	*	*	N	N	Y	Y
Costa (D)	Y	Y	Y	Y	Y	Y	Y	Y
Deddeh (D)	Y	Y	Y	Y	N	Y	N	Y
Duffy (R)	N	N	Y	Y	N	Y	N	Y
Egeland (D)	N	Y	Y	Y	Y	Y	Y	Y
Elder (D)	Y	Y	Y	Y	N	Y	Y	Y
Ellis (R)	Y	N	Y	N	N	Y	N	Y
Felando (R)	Y	N	N	Y	N	Y	N	Y
Fenton (D)	Y	Y	Y	Y	Y	Y	N	Y
Filante (R)	N	Y	*	Y	N	N	*	*
Frazee (R)	Y	N	Y	Y	N	Y	N	Y
Gage (D)	N	Y	Y	Y	N	Y	Y	Y
Goggin (D)	*	*	Y	Y	Y	Y	Y	*
Greene (D)	Y	Y	Y	Y	Y	Y	Y	*
Hallett (R)	Y	N	Y	N	Y	*	N	Y
Hannigan (D)	N	Y	Y	Y	Y	Y	N	N
Harris (D)	N	Y	Y	Y	*	Y	Y	Y
Hart (D)	N	Y	Y	Y	Y	Y	Y	Y
Hayden (R)	N	Y	Y	Y	N	Y	Y	N
Hayes (R)	Y	N	*	N	N	N	Y	Y
Hughes (D)	Y	Y	Y	Y	Y	Y	Y	Y
Imbrecht (R)	Y	Y	Y	Y	N	Y	N	Y
Ingalls (D)	Y	Y	Y	Y	N	N	Y	Y
Ivers (R)	Y	N	N	Y	N	N	Y	Y
Johnson (R)	Y	N	*	N	N	N	*	*
Kapiloff (D)	Y	Y	Y	Y	Y	Y	N	Y
Kelley (R)	Y	N	N	Y	N	Y	N	Y
Knox (D)	Y	Y	Y	Y	*	Y	N	N
Lancaster (R)	Y	N	*	N	*	*	N	Y
Lehman (D)	Y	Y	Y	Y	*	Y	N	Y
Leonard (R)	Y	N	N	N	Y	N	N	Y
Levine (D)	N	Y	Y	Y	*	Y	Y	Y
Lockyer (D)	N	Y	Y	Y	Y	Y	Y	Y
Mangers (D)	N	*	Y	*	Y	Y	N	Y
McAlister (D)	Y	Y	Y	Y	Y	Y	N	Y
McCarthy (D)	N	Y	Y	Y	Y	*	Y	Y
McVittie (D)	Y	Y	Y	Y	Y	Y	Y	Y
Mello (D)	Y	Y	Y	Y	Y	Y	N	Y
Moore (D)	Y	Y	Y	Y	Y	Y	Y	Y
Moorhead (R)	Y	N	Y	Y	N	Y	N	Y
Mori (D)	*	Y	Y	Y	Y	Y	N	Y
Mountjoy (R)	Y	N	*	N	N	N	N	Y
Naylor (R)	Y	Y	N	Y	N	Y	N	Y
Nestande (R)	Y	N	Y	N	Y	Y	N	Y
Nolan (R)	Y	N	Y	N	N	Y	N	Y
Papan (D)	Y	Y	Y	*	Y	Y	*	N
Perino (D)	Y	N	Y	Y	*	Y	N	Y
Priolo (R)	Y	N	Y	N	*	Y	*	Y
Robinson (D)	Y	Y	Y	Y	Y	N	N	N
Rogers (R)	Y	*	*	*	*	N	N	*
Roos (D)	Y	Y	Y	Y	Y	Y	Y	Y
Rosenthal (D)	N	Y	Y	Y	Y	Y	Y	*
Ryan (R)	Y	Y	Y	Y	Y	N	*	
Statham (R)	Y	N	Y	Y	*	N	Y	
Stirling (R)	Y	N	Y	N	N	N	N	
Tanner (D)	*	Y	Y	Y	Y	Y	Y	
Thurman (D)	Y	Y	Y	Y	Y	*	*	
Torres (D)	N	Y	Y	Y	Y	Y	Y	
Tucker (D)	N	Y	Y	Y	*	N	N	
Vasconcellos (D)	Y	Y	Y	Y	Y	Y	Y	
Vicencia (D)	*	*	*	*	Y	*	Y	
Waters, M. (D)	Y	Y	Y	Y	Y	Y	Y	
Waters, N. (D)	Y	N	Y	Y	Y	Y	Y	
Wray (D)	Y	*	Y	Y	Y	*	Y	
Wyman (R)	Y	N	N	N	N	N	Y	
Young (D)	Y	Y	Y	Y	Y	*	Y	

Newsmakers

Sting of the Bee



Lieutenant Governor **Mike Curb** threatened to file a libel suit against the *Sacramento Bee,* which published a story reporting that he is under investigation by the Internal Revenue Service because of alleged illicit record sales to organized crime figures while Curb was president of MGM records. Curb said the story was "totally irresponsible." The *Bee* said it would stand by the story, written by investigative reporter Denny Walsh . . . **Wilson Riles Jr.,** son of the superintendent of public instruction, won a seat on the Oakland city council, defeating **Fred Maggiora,** who had held the office for 28 years . . . A write-in candidate, **Ralph Hernandez,** won a San Bernardino city council election by four votes.

Former Assemblyman **Harvey Johnson** of El Monte died at 74 . . . **Gale Bishel,** clerk of the state Supreme Court from 1970 until his retirement in April, died following a long illness . . . Former California Congressman **Richard Hanna** was freed after serving one year in federal prison for his role in the Korea Influence-buying scandal.

Russell Cahill, state director of parks and recreation, unleashed a bitter attack on legislators studying his department's budget and announced his resignation. But he was talked out of his resignation a week later by Gray Davis, Governor Brown's chief of staff . . . Three who did resign: former Assemblyman **Charles Warren,** chairman of the President's Council on Environmental Quality: **Willie Barnes,** state commissioner of corporations; **Charles R. Roberts,** executive director of the San Francisco Bay Conservation and Development Commission.

Appointments by Governor Brown: **Coleman A. Blease,** long-time lobbyist for liberal organizations, as an associate justice of the appellate court in Sacramento; **David E. Pesonen,** attorney and militant conservationist, as director of the state department of forestry.

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CHARTING THE LEGISLATURE

The following is a list of significant bills pending before the Legislature on May 21st.

SUBJECT	BILLS	DESCRIPTION	STATUS
BAIL	AB 2 (Berman) SCA 17 (Presley)	AB 2 reforms the current bail system to provide a 10% bail deposit in misdemeanor cases. SCA 17 requires the consideration of public-safety factors in the granting of bail.	*AB 2 is in the Assembly Ways and Means Committee. SCA 17 is on the Senate floor.*
BEVERAGE CONTAINERS	SB 4 (Rains)	Imposes a five-cent refund value on beer and soft drink containers.	*On Senate floor.*
ELECTIONS & CAMPAIGNS	AB 222 (McCarthy)	Prohibits a former officeholder or candidate from spending surplus campaign funds for personal use.	*Senate Elections and Reapportionment Committee.*
	SB 1135 (Schmitz)	Requires apportionment of delegates elected in the Republican presidential primary election.	*Senate Finance Committee.*
GASOLINE REGULATION	SB 1208 (Carpenter) SB 1209, 1210 (Foran) AB 1889 (Calvo) AB 1900, 1901 (Rogers)	Introduced in response to the gas shortage, these measures would change the lead and additive content of gasoline, alter volatility standards, require that gasoline contain varying percentages of alcohol, and permit the sale of gasohol.	*SB 1208 is in the Senate Transportation Committee. All other measures are in the Assembly Transportation Committee.*
GOVERNMENT SPENDING	ACA 2 (Boatwright)	Constitutional amendment to limit the annual appropriations of state and local governments.	*On Assembly floor.*
HEALTH CARE	SB 691 (Montoya)	Imposes additional informed-consent requirements for the performance of abortions.	*On Senate floor.*
INSURANCE	AB 116 (McAlister)	Enacts a system of mandatory no-fault motor vehicle insurance.	*On Assembly floor.*
NUCLEAR POWER PLANTS	SB 1183, 1184, 1185 (Garamendi)	Requires state Energy Commission to develop an alert system for nuclear power plant emergencies and requires nuclear facilities to establish a system of fixed off-site radiation monitoring devices.	*Senate Energy and Public Utilities Committee.*
PUBLIC ASSISTANCE	SB 1 (Greene)	Would grant a 7.7% retroactive cost-of-living increase to welfare recipients and a 4.7% cost-of-living increase to the aged and disabled.	*On Senate floor.*
	SB 259 (Alquist)	Provides for state assumption of county general assistance programs and establishes statewide standards for eligibility, grants, and employment requirements.	*On Senate floor.*
	AB 381 (Boatwright)	Major welfare reform proposal to revise step-parent financial responsibility for the support of step-children and to make changes in the administration of welfare and the food stamp program.	*Assembly Ways and Means Committee.*
PUBLIC EMPLOYEES	SB 91 (Alquist)	Appropriates $819,555,000 for state-employee cost-of-living salary increases for the 1978-79 and 1979-80 fiscal years.	*Assembly Public Employees and Retirement Committee.*
PUBLIC FINANCE	SB 186 (Rodda) SB 550 (Holmdahl) SB 1050 (Holmdahl)	SB 186 and SB 550 allocate additional state funding for the support of local governments for the 1979-80 fiscal year. SB 1050 would provide a permanent system for financing local government, beginning with the 1980-81 fiscal year.	*SB 186 is in the Assembly Education Committee. SB 550 and 1050 are in the Senate Finance Committee.*
	SB 234 (Dills) AB 8 (Greene)	Major school finance measures.	*SB 234 is in the Assembly Education Committee. AB 8 is in the Assembly Ways and Means Committee.*

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By Leo Rennert

Western-style ambush

The Great California Gasoline Crunch of 1979 blindsided the White House with a political jolt from which President Carter is not likely to recover soon. Despite strong signs of a serious crisis in the making, the administration lost valuable time in getting its act together. When it finally plunged in with a semblance of a battle plan, it was too late. Jerry Brown, once more, had pre-empted the spotlight. As the country watched nervously, Carter found himself pretzeled into a no-win position. Any belated federal moves to help California would be seen as a cave-in to Brown and as special favoritism to one state. On the other hand, an inadequate response to the California problem would give Brown new ammunition to attack the White House and would further demolish Carter's image as a can-do engineer. Typically, the President chose to muddle along somewhere between these two unhappy options.

CARTER HAD A CHANCE to observe the shortage first-hand when he was in Southern California for the Cinco de Mayo celebration. But he was too busy playing catch-up ethnic politics, and he seriously underestimated the depth and scope of the problem. His first reaction was to welcome the crunch as a blessing in disguise. After all, it bore out his repeated warnings that the energy crisis is real and gave him an opportunity for public moralizing about the need for consumers to curb their appetites. As to the discomforts that Californians were experiencing in the meantime, Carter asked Energy Secretary James Schlesinger to give him a report in a week.

Events immediately overtook this easy-on-the-throttle strategy. On Capitol Hill, California's big congressional delegation was feeling the heat from angry constituents. The *Washington Post* and legislators from other states aggravated the delegation's siege mentality by suggesting Californians were a special breed of hedonists who justly brought the problem on themselves. The administration at first encouraged this perception by blaming the crunch on sharply rising consumer demand and by insisting the oil industry was blameless. To add more salt to the California wound, the White House began pushing for congressional ratification of a national standby gasoline-rationing plan and making deals with other states, at California's expense, to pick up enough Senate votes. After undergoing revisions to placate influential senators, the plan left California trailing 36 other states on the allotment scale. In a national emergency, Texas stood to get a monthly rationing allocation of 60.9 gallons per car, while California drivers would have to settle for 47.8 gallons.

It didn't take long for the White House to feel the sting of the California backlash. Democratic Senator Alan Cranston caught on to the threat to his own state just before the vote. He took off his national-leadership hat, put on his California-first bonnet and joined his Republican colleague, Republican S. I. Hayakawa, in voting against the White House. Forty-eight hours later, with a clear eye on his own 1980 re-election prospects, Cranston asked Carter to fire Schlesinger. The breach between California and the Georgians in the White House was complete.

The rationing plan, however, sailed easily through the Senate. The next day, when it got to the House, Californians got a chance to play real western-style ambush politics. Aware of the rising anger in the delegation over the crunch back home and the anti-California tilt in the rationing scheme, the White House rushed Stuart Eizenstat, Carter's top domestic aide, to Capitol Hill for a last-ditch fence-mending effort. Schlesinger was elbowed aside and the administration finally realized it needed to come up with more than just pieties. Eizenstat announced he had taken personal charge of federal efforts to solve the California crisis and would give it "everything I've got." Too late. The Californians voted 29 to 9 against the rationing plan as the House buried it. Democrats in the delegation, urged on by Governor Brown, split 14 to 8 against Carter. Cranston, who lobbied his California colleagues to break with the administration, called Carter's defeat "a victory for California."

For the White House, now completely on the defensive, there was even worse news ahead — in the form of Jerry Brown. As the shortage continued in California, top administration officials split sharply over what to do. Schlesinger sent his report to the White House, which promptly rewrote it. The secretary was in no mood to conciliate Brown while Eizenstat wanted to mount just enough of a rescue effort to take the heat off Carter. With Washington groping and procrastinating, Brown saw his opening. The Governor, with typical chutzpah, invited himself to the White House for a personal meeting with Carter to shake up the feds and to warn of a hair-curling recession that might spread from California to the rest of the nation. Overnight, Brown was the leading actor in the drama — with Carter floundering in a supporting role.

IN A COUNTER-MOVE WORTHY of the Keystone Cops, the White House tried to take the spotlight away from Brown by also inviting the entire congressional delegation, Assembly Speaker Leo McCarthy and Los Angeles Mayor Tom Bradley to the Brown-Carter meeting. Press photographers were barred from the Cabinet Room. McCarthy took a swipe at Brown for "doing nothing" on energy conservation in California since the passage of Proposition 13. Brown waltzed around these pop-gun tactics like Muhammad Ali around a third-rate challenger.

After the crunch "summit" with Carter, Hayakawa went before a battery of microphones on the White House driveway to offer his own solution: Eliminate all price controls and let gasoline rise to $2 or more a gallon. Wouldn't that hurt the poor? No, said the junior senator who had nodded off in the Cabinet Room; most of the poor don't need gas because they aren't working. Everybody laughed.

For the time being.

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CAN YOU PASS THIS BRIEF QUIZ?

1. Who was Henry H. Markham?

2. How large was the state budget for the 1950-51 fiscal year?

3. How many registered voters does it take to qualify a new political party in California?

ANSWERS:

1 — Republican governor of California, 1891-94, first gubernatorial candidate to get more than 100,000 votes.

2 — $973 million, roughly five percent of next year's budget.

3 — 71,320.

You can find the answers to these trivia questions — and to thousands of other questions not nearly so trivial — in the new edition of the

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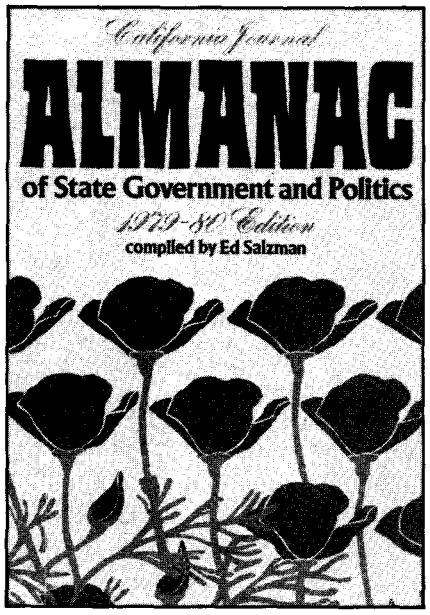

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